

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division

The United States of America,

Plaintiff,

versus 3:10CR398

Israel Cruz Millan,

Defendant

before: HONORABLE JAMES R. SPENCER
United States District Judge

Sentencing

February 16, 2012
Richmond, Virginia

Gilbert F. Halasz, RMR
Official Court Reporter
U. S. Courthouse
701 East Broad Street
Richmond, Virginia 23219

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APPEARANCES

Michael R. Gill, Esq.

Angela Miller, Esq.

Addison B. Thompson, Jr., Esq.

for the United States

Atchuthan Sriskandarajah, Esq.

Rober Varner Combs, III, Esq.

for the defendant

The defendant

in his own proper person

1 THE CLERK: Case number 3:10 CR 308.

2 The United States of America versus Israel Cruz
3 Millan.

4 The United States is represented by Michael
5 Gill, Addison Thompson, and Angela Miller.

6 The defendant is represented by Atchuthan Sris.

7 Are counsel ready?

8 MR. GILL: United States is ready, Your Honor.

9 MR. SRISKANDARAJAH: Defendant is ready, Your
10 Honor.

11 THE COURT: All right.

12 Government?

13 MR. GILL: Good morning, Your Honor.

14 The defendant is before The Court this morning
15 after having previously pled guilty to counts one,
16 nine and ten of the indictment; count one charging
17 conspiracy; count nine charging him with conspiracy
18 to possess, produce, and transfer false
19 identification documents; count ten being money
20 laundering conspiracy.

21 As he stands before The Court this morning he
22 is offense level of 38. Guidelines criminal history
23 category one. Yields a range of 235 to 293 months.
24 There are no objections to the calculations from
25 either side.

1 The United States has moved for an upward
2 variance, and the defense has moved for a downward
3 variance.

4 THE COURT: All right.

5 Mr. Cruz Millan, would you stand where you are,
6 please.

7 Sir, have you had an opportunity to have this
8 presentence report explained to you and then
9 discussed it with your lawyer?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: All right.

12 Thank you. You may have a seat, sir.

13 Counsel, if you would would approach.

14 Counsel, have you had adequate opportunity to
15 review the presentence report and discuss it with
16 your client?

17 MR. SRISKANDARAJAH: I have, Your Honor.

18 THE COURT: Do you have any objections,
19 corrections, or amendments to the presentence report
20 as offered?

21 MR. SRISKANDARAJAH: No, Your Honor.

22 THE COURT: All right.

23 You may have a seat. I will hear the motion
24 from the government.

25 MR. GILL: Your Honor, this morning in support

Joseph - direct

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1 of our motion for upward variance we have two
2 witnesses. Special Agent Joseph will be the first
3 to call.

4 THE COURT: All right.

5 P. JOSEPH

6 WAS SWORN AND TESTIFIED AS FOLLOWS:

7 DIRECT EXAMINATION

8 BY MR. GILL:

9 Q Good morning.

10 Please introduce yourself to Judge Spencer.

11 A Good morning.

12 P. Joseph, Special Agent Homeland Security
13 Investigation.

14 Q How long have you been an agent with Homeland
15 Security Investigation?

16 A Since November of 2003.

17 Q Are you one of the lead investigators assigned
18 to the case involving Israel Cruz Millan and the
19 criminal enterprise at the heart of this case?

20 A Yes, sir, I am.

21 Q I want to talk to you specifically about Israel
22 Cruz Millan today. Starting out, can you give Judge
23 Spencer just a brief description, overall nature of
24 the investigation, and the extent of the criminal
25 enterprise that you uncovered here in the United

Joseph - direct

6

1 States?

2 A Briefly, this organization is that, that we
3 started looking at, quickly developed. We realized
4 it was a massive organizational structure that has
5 ties to Mexico; 18 cells, 13 states, most of the
6 east coast, some of the midwest. The organization
7 sold tremendous amount of counterfeit identification
8 documents and wired over a million dollars in three
9 years to Mexico.

10 Q At the heart of your knowledge about this
11 organization, aside from search warrants and
12 subpoenaed records, were there six different wire
13 taps, court-authorized wire taps?

14 A Yes, sir.

15 Q As as well as numerous debriefings of numerous
16 co-conspirator in this investigation?

17 A Yes, sir.

18 Q Through all that work, tell us, who was in
19 charge of the organization at the time of the
20 nation-wide take-down in November of 2010.

21 A Israel Cruz Millan or El Muerto.

22 Q El Muerto, generally what does that mean?

23 A Translated to the "dead one."

24 Q Describe for us the nature of the supervision
25 that he exercised for this organization when he was

1 in charge?

2 A We learned very, very quickly that he was
3 essentially a micro manager. He oversaw daily
4 operations, numerous cells on a daily basis; all the
5 way from accounting to sales, supply, competition,
6 internal problems. He was, he had his hand in all
7 of it.

8 Q Where -- and describe for us the general
9 hierarchy of this organization. Where he falls in
10 that hierarchy.

11 A Again, very clear from the very beginning he
12 was essentially the top guy in the United States.
13 He was the CEO. Through the intercepts we found
14 that there were leadership in Mexico, but there was
15 nothing close to the leadership on his level here in
16 the United States. He was absolutely the top dog.

17 Q In that position, as far as the operation of
18 the cells within the United States, did your
19 investigation show that indeed he was the one who
20 was in charge of coordinating all that? There was
21 not contact from Mexico to these cells? Instead it
22 his him?

23 A It was Cruz Millan who made the vast majority
24 of the decisions.

25 Q Overall, describe for us the amount of time you

Joseph - direct

8

1 had him connected to this organization we are going
2 to talk, about his time as supervisor.

3 A We have him -- we have an arrest for
4 counterfeit identification documents related to
5 crime in Nashville in 2006, Nashville, Tennessee,
6 where he was arrested with laminators, printers,
7 computers. Typically all of the tools needed to
8 create, manufacture identification documents. As
9 far as, very consistent with, also with the
10 equipment we found on November 18 of 2010 throughout
11 the country during the nation-wide take-down
12 operation.

13 Q In fact, as we will discuss, Nashville,
14 Tennessee was one of the operating cells for this
15 organization even at the time of the take-down?

16 A Yes, it was.

17 Q Now, describe for us what you uncovered through
18 the investigation with respect to his link to time
19 as the overall supervisor of U.S. operations.

20 A Through the debriefs of multiple cooperating
21 defendants we learned that he has been in charge
22 essentially 18 months to two years in the United
23 States.

24 Q Through the investigation, including wire tap
25 intercepts, are you aware of anyone else taking over

Joseph - direct

9

1 supervision during that time period?

2 A No, sir.

3 Q With respect to coordinating cell operations,
4 including the acts of violence, were you aware of
5 instances that actually resulted in acts of violence
6 or planned acts of violence where he was not
7 involved?

8 A No.

9 Q Let's talk about the defendant's connection to
10 violent events. First off, tell us overall this
11 organization's connection with violence, both
12 internally and externally.

13 A Before the violence you have to understand the
14 organization was built on total control. Control
15 was the main function to keep order. To keep people
16 from selling internally, control over market place.
17 Violence was a tool that was used to maintain that
18 control. So violence was used internally to
19 maintain discipline, maintain the rules of the
20 organization. As well as violence was obviously
21 used externally in the community to cement their
22 foot hold, eliminate competition and raise market
23 price.

24 Q In fact, first talk a little bit about
25 internally. Are you aware of specific acts or, you

Joseph - direct

10

1 know, general method they would use to address
2 serious violations of internal rules?

3 A Absolutely.

4 Q What type of instances would they use?

5 A It was essentially, or exactly, standard
6 operating procedure by the organization when they
7 went and laid a hit on a competitor, or what they
8 would call a cleaning, they would use, we saw
9 numerous --

10 MR. SRISKANDARAJAH: Objection, Judge. I
11 believe the question was internally.

12 BY MR. GILL:

13 Q Internally, first, and then we will talk
14 externally.

15 A Yes. There was an act of violence internally
16 in Raleigh, North Carolina, September 29.

17 Q Are you aware of other acts including events
18 that occurred here in Richmond, Virginia?

19 A Yes, sir.

20 Q Did that involve Jose or J. M. M., who
21 testified at trial?

22 A Yes. That's correct.

23 MR. GILL: Your Honor, we move for admission of
24 exhibit number 17, which is the testimony of J. M.
25 M. from the trial.

Joseph - direct

11

1 THE COURT: All right.

2 MR. GILL: Just to move things along if it is
3 okay with The Court, I would like to refer to three
4 different pages.

5 THE COURT: Go ahead.

6 MR. GILL: 36 through 38, Your Honor.

7 J. M. M. testified at trial that in Richmond,
8 we were in Norfolk, but we went to a meeting in
9 Richmond. They started talking there about the
10 people who had broken the rules. So then once they
11 started talking about who had broken the rules, they
12 got them together and they were spanked.

13 Question: Okay. Who was in charge of that
14 meeting?

15 Answer: Muerto.

16 Question: What Did he say was the reason he
17 was having the meeting?

18 Answer: Because many people were lowering the
19 price of the documents and taking customers away
20 from other members.

21 Turning to page 37 at line 6.

22 Question: How many people approximately were
23 there at this meeting?

24 Answer: Like 15 or 20.

25 Question: Who was being punished at this

1 meeting by spanking?

2 Answer: There were various ones. This was
3 Chacho, Cheyung. Another two people and me. So I
4 wouldn't be spanked I got in with it, too.

5 Question: Tell the jury why -- tell the jury
6 what happened when Chacho and Cheyung got spanked.

7 Answer: They were put in place, and each
8 person would give them a spanking. But they would
9 have to take their pants down.

10 Question. Who had to participate in the
11 spanking?

12 Answer: Everybody. One of the rules was that
13 you had to hit hard because if you didn't, you would
14 get it, too.

15 And then the top of page 38 in response to the
16 question: Did you hit Chacho and Cheyung?

17 Answer: I didn't hit Cheyung hard. And he
18 told them that I had not hit him hard.

19 Question: What happened because you had,
20 didn't hit Cheyung hard enough?

21 Answer: They put my in as well.

22 Question: Were you spanked?

23 Answer: Spanked and without eye brows.

24 Now, that type of event, Agent Joseph, that you
25 heard about in debriefs of co-conspirators involved

1 in this case?

2 A We heard that exact same thing over and over.

3 Q Now, then you mentioned externally.

4 Now, before we talk about externally, tell
5 Judge Spencer, did it appear based on your
6 investigation and knowledge of this organization
7 that the acts of violence, particularly once
8 externally, started more recently, or was this
9 something that was a culture of this organization?

10 A It was absolutely part of the culture.

11 Q How far back? Do you have examples of them
12 dating back to even before 2010?

13 A We have a record of an additional homicide than
14 previously mentioned to this court in Little Rock,
15 Arkansas in 2008. Back then.

16 Q Was there then an event that occurred in the
17 Richmond area as well?

18 A There is. In June of 2009.

19 Q Will you identify a pattern they generally
20 followed in executing attacks against competition?

21 A Absolutely.

22 Q What was the pattern that they chose to follow?

23 A The similarity between these acts that we have
24 been able to identify over the two-year
25 investigation, these guys, standard operating

1 procedure, they have pre-paid phones, they find an
2 abandoned houses, trailers. They used duct tape.
3 They use multiple members to gang up on rival
4 document manufacturers or sales person to lure them
5 to this abandon house. They will take them in.
6 They will assault them. They will interrogate them.
7 They will threaten them with multiple instances of
8 use of a gun, and they will interrogate specifically
9 unaware of the location of their equipment, document
10 manufacturing equipment.

11 Q Through the investigation, co-conspirator
12 debriefings, as well as wire tap intercepts, what
13 can you tell us with respect to supervisory roles of
14 the defendant as far as being involved in acts of
15 violence?

16 A Again, Cruz Millan was a micro manager. Every
17 act of violence we saw went through him. There was
18 talking, there was talk on a cell level about acts
19 of violence. They would have to wait for
20 authorization from Cruz Millan.

21 Q Now, I want to talk about specifics first.
22 Raleigh, North Carolina.

23 Just generally, describe for us the
24 significance of that cell for the organization, and
25 who was in that area for the events on October 29 of

1 2010?

2 A We knew Raleigh to be one of our major cells.
3 And we also knew that Cruz Millan was either living
4 there or spending the vast majority of his time
5 there.

6 Q Generally, what major event occurred there on
7 October 29 of 2010? How did you become aware of it?

8 A We were sitting in the monitor room on a Friday
9 evening when I a call came in from our Spanish
10 speaking monitor informed us that a gentleman, a
11 man, was about to, was getting beat up by Cruz
12 Millan.

13 Q We will talk in couple minutes about the steps
14 that you and other investigators took. But give
15 Judge Spencer a description, just the overall
16 evidence that you gathered in the investigation
17 about that event that gave you an inside look at
18 what happened.

19 A Well, throughout the call she was letting us
20 know there was lot of yelling, that it was
21 definitely business-related, it was
22 fraudulent-document related. It was also internal
23 member that was being disciplined, the words
24 "torture" was used. To preserve life we notified
25 Raleigh Police Department of the incident who

1 actually responded, and ultimately conducted a
2 search warrant at the residence. They were also
3 able to locate the victim of that assault.

4 Q Was that victim interviewed?

5 A He was.

6 Q In addition, did D. F. A., who testified at the
7 trial of Edy Oliverrez-Jiminez, testify about him
8 being present and what happened in relation to that
9 event?

10 A He was present.

11 MR. SRISKANDARAJAH: Objection, Judge. That
12 would be hearsay.

13 THE COURT: Overruled.

14 THE WITNESS: He testified that he went to the
15 residence. Saw Cruz Millan grab an individual named
16 Chingway off the couch. He was on the couch
17 sleeping. Grabbed him, began to assault him. Threw
18 him, dragged him upstairs of the residence. Short
19 time later the -- sorry.

20 BY MR. GILL:

21 Q D. S. A.?

22 A D. S. A. was summoned up to the room. Sorry.
23 Let me go back a second.

24 Previously that day Cruz Millan ordered him to
25 go and buy a bucket, jumper cables, as well as duct

1 tape.

2 Back to the room. D. S. A. entered the room,
3 saw Chingway bound to the chair with duct tape.
4 Cruz Millan asked him for his telephone, which he
5 had other, several phones laid out on the bed. He
6 basically -- Cruz Millan made a conference call to
7 other cell members and proceeded to orchestrate and
8 participate in the assault, and ultimately the
9 electrocution of Chingway.

10 Q What did they use to electrocute Chingway? And
11 tell Judge Spencer about D. S. A. testimony how they
12 were able to make a connection on that?

13 A D. S. A., as I say, went up there. He saw they
14 were using the car battery, the jumper cables, and
15 then there was a bucket. They were initially
16 shocking Chingway without the use of bucket of
17 water, but according to D. S. A. Cruz was
18 unsatisfied with the results of the, I guess the
19 conductive nature without the water. So he
20 instructed D. S. A. to get the bucket of water, get
21 a bucket, fill it up, and place Chingway's feet in
22 the bucket, and proceeded to electrocute him, which
23 was more satisfactory to Cruz Millan.

24 Q Now, explain to us, D. S. A., what was his role
25 for the organization and connection to Raleigh; and

Joseph - direct

18

1 Chingway, what position was he in the organization?

2 Where was he brought in from for this attack?

3 A He was the cell manager for the Raleigh cell.

4 Actually, was also potentially roommates with Cruz

5 Millan at that period of time. Chingway was a

6 runner in the Greensboro, North Carolina cell.

7 MR. GILL: Your Honor, we move for admission of
8 exhibit number 5, which is the testimony of D. S. A.
9 from the jury trial of Edy Oliverrez-Jiminez from
10 this event.

11 THE COURT: It will be admitted.

12 BY MR. GILL:

13 Q Now, then, Agent Joseph, I know you have a
14 stack of exhibits there in front of you. If you
15 would take a look at exhibit number 2. Are these
16 generally photographs that were taken at the
17 Whitehall address where this attack occurred on the
18 night of October 29 of 2010 by Raleigh Police
19 Department?

20 A That's correct.

21 MR. GILL: Your Honor, we move admission of
22 exhibit number 2.

23 THE COURT: It will be admitted.

24 BY MR. GILL:

25 Q Explain to us -- on the screen there we have

1 page one -- what are we looking at?

2 A This is just the residence at Whitehall Avenue
3 in Raleigh.

4 Q In fact, that is where the residence is?

5 A It is the far end.

6 Q Now then, turning to -- look at page 4, please.

7 Explain to us what we are looking at there.

8 A This is, according to D. S. A., the couch where
9 Chingway was sleeping that Cruz Millan pulled him
10 off and began to assault him.

11 Q The next page, page 5, please.

12 A Cruz Millan forced Chingway up the stairs.

13 Q Page 5. Okay.

14 There you go.

15 A Sorry. The stairs.

16 Q Yes. These were the stairs?

17 A These were the stairs that Chingway was dragged
18 up or forced up to the room where he was eventually
19 tied to or taped to a chair with duct tape.

20 Q And then page 6.

21 A Actually the chair. And in the back you see
22 the bed which is, according to D. S. A., where the
23 phones were laid out for this pseudo conference
24 call. Because you see the chair is broken and
25 pieces are laying on the ground.

Joseph - direct

20

1 Q Now, you indicated that you notified Raleigh
2 Police Department about this after you became aware
3 of the event. Are you aware of what happened with
4 Chingway, if he was able to get away?

5 A Chingway provided a statement, a brief
6 statement to the Raleigh Police Department and said
7 that he was able to jump out, escape out the second
8 story window. Jumped out -- and.

9 MR. SRISKANDARAJAH: Judge, I object. This is
10 definitely hearsay, Judge.

11 THE COURT: I know it is hearsay.

12 MR. SRISKANDARAJAH: I understand, Judge.

13 THE COURT: Go ahead.

14 BY MR. GILL:

15 Q Thank you.

16 There do you see the window where he would have
17 escaped from in that photograph?

18 A Yes, absolutely. Especially on page 3,
19 actually.

20 Q Look at page 2. First slide.

21 A Page 2. Much better shot.

22 Q Okay.

23 A That would be the window of that bedroom. And
24 closer examination of that --

25 Q Page 3?

1 A -- siding on page 3, Raleigh Police Department,
2 close-up here, right here, is going to this spot
3 over here is going to be blood. Blood spots.

4 Q If you will touch the lower right hand of the
5 screen.

6 Was the victim treated for injuries, and
7 generally what injuries did he receive as a result
8 of this his attack?

9 A He was treated as Wake Medical Hospital. And
10 the numerous injuries across his body, severe
11 lacerations, he had a mangled ear. Probably the
12 most severe were two injuries, were a series of
13 cracked vertebrae, as well as burn marks across the
14 torso of his body.

15 Q You indicated that there were two calls,
16 conference calls, that were intercepted?

17 A Yes, sir.

18 Q Generally, did both of them follow the same
19 pattern and show the same level of violence?

20 A When the first one ended we thought that it was
21 over. And then the monitor immediately said that he
22 was making another call, and it was the exact same
23 in nature. And after looking at the translation, we
24 were able to see it was the exact series of demands,
25 assaults, of warnings to other members that things

1 were going to change, things needed to be tightened
2 up, or any one of them could be in store for a
3 beating or torture that he was delivering that night
4 to Chingway.

5 MR. GILL: Your Honor, at this time we move
6 admission of Government's exhibits number 1, a
7 compact disc, that contains some of these recordings
8 that are marked as Government's exhibits. And we
9 also move for admission of exhibit 3 and 4, which
10 are the transcripts from those recordings that Agent
11 Joseph is testifying about.

12 THE COURT: They will be admitted.

13 MR. GILL: At this time, Your Honor, government
14 will play the recording for Government's exhibits
15 number 4, which is call number 1 of 6, that occurred
16 roughly 6:14 p.m. October 29 of 2010.

17 (Disc being played)

18 BY MR. GILL:

19 Q Before we go further, please describe for the
20 Judge who the players are on the ground in the room
21 at the time this recording is being made?

22 A According to this call, the previous call as
23 well, as well as testimony from D. S. A., we know
24 that Cruz Millan was in the room. Chingway is bound
25 to the chair in the room. Two individuals we have

Joseph - direct

23

1 determined are enforcers or beaters of the
2 organization, named Peron and Yugo.

3 And according to D. S. A. the cell leader,
4 Gabriel, I believe his name was. Sorry. That was
5 El Gotto.

6 Q And according to D. S. A. testimony and the
7 nature of the recording itself, overall, who was in
8 charge of this from the start to the finish?

9 A It is very clear it is Cruz Millan is the --
10 owns the room. He is controlling. He is doing the
11 instructing and making phone calls.

12 (Disc being played).

13 MR. GILL: Your Honor, the recording is on the
14 monitor. It follows step by step.

15 (Disc being played)

16 Q Basically are they getting all the players?
17 Are these cell managers that you recognize from the
18 nicknames?

19 A Absolutely.

20 Q Panales is another?

21 A Nariz is another cell leader.

22 (Disc being played)

23 Q Agent Joseph, I know this is the second call of
24 of the two, but in the first call, similar nature,
25 same type beating you can hear in the background?

Joseph - direct

24

1 A Yes, sir.

2 Q Pain?

3 A Yes, sir.

4 Q Let's talk about Little Rock, Arkansas.

5 Turning to Government's exhibits number 8,
6 which is a few photographs from the murder location.

7 Your Honor, we move admission of those.

8 THE COURT: They will be admitted.

9 BY MR. GILL:

10 Q Agent Joseph, in very, very quick general terms
11 tell us generally what happened at that trailer as
12 far as the organization and who were the
13 on-the-ground participants that we believe were
14 involved based on the investigation?

15 A This is the abandoned trailer on July 6, 2010
16 where the body was discovered bound and beaten.
17 Involved in this homicide was Edy Oliverrez-Jiminez,
18 Armando Gonzales Medina, and Erik Martinez-Ortiz.

19 Q Was Edy Oliverrez-Jiminez convicted at trial for
20 his role in that murder?

21 A Yes, sir, he was.

22 Q What was his position in the organization in
23 Little Rock at the time murder?

24 A He was cell leader.

25 Q The other two you mentioned?

Joseph - direct

25

1 A Runners.

2 Q Per your knowledge of how the organization
3 worked, and to be fair, is there any evidence that
4 Israel Cruz Millan was present in Little Rock,
5 Arkansas at the time?

6 A No, sir.

7 Q But based on your knowledge of the
8 organization, how it works, and acts of violence,
9 what would have been his role?

10 A It would have been authorized.

11 MR. SRISKANDARAJAH: I object. That would be
12 still speculation at this point.

13 THE COURT: Sustained.

14 BY MR. GILL:

15 Q Agent Joseph, describe generally for Judge
16 Spencer the level of phone, telephone toll analysis
17 you did in this investigation, focusing specifically
18 on Little Rock.

19 A This is as extensive as as I have ever
20 conducted in my career. Specifically we analyzed
21 over 770,000 calls throughout the investigation.
22 And we pinpointed -- we were informed of this
23 homicide by Special Agent Jason Bennett. We
24 immediately requested the victim's phone number.
25 Upon looking at that phone number we knew for a fact

1 that he was set up and killed by members of the same
2 fraudulent document organization we were
3 investigating in Virginia.

4 Q Now, through that toll analysis did you,
5 including the wire intercepts and analysis, did you
6 get an idea of Israel Cruz Millan's habits in using
7 phones, and how long he would keep them?

8 A Cruz Millan got -- we have probably more than a
9 dozen phones where we have attributed to him during
10 the investigation. He would regularly, I mean he
11 may have a phone a month, six weeks, but regularly
12 drop the calls, drop them, get a new one. There
13 were multiple occasions where he had -- in fact it
14 was, I would say, regular for him to have two phones
15 at one time.

16 Q Take a look at Government's exhibit number 9.
17 Are these telephone summary charts you prepared on
18 the target cell phones that have been tied to Israel
19 Cruz Millan?

20 A Yes, sir.

21 MR. GILL: We move the admission of
22 Government's exhibits 9.

23 THE COURT: They will be admitted.

24 BY MR. GILL:

25 Q With respect to his habits that you are aware

1 of through the wire intercepts did Israel Cruz
2 Millan loan his phone to others, or did he, as far
3 as you know, maintain control and use of his phone?

4 A I can't think of an instance ever where he did
5 not use -- someone else used his phone.

6 Q Looking at page one of exhibit 9 that is on the
7 screen. Describe for Judge Spencer what this shows
8 and the time range for that particular phone.

9 A In order to make those 770,000 tolls visually
10 understandable, we compressed them into these
11 charts.

12 And you will see a pattern as we go through
13 each one. This first one here shows target cell
14 number two, the first line that we intercepted Cruz
15 Millan using, (916) 310-7536. And the date
16 represents the life of the phone. This follows the
17 period of time that we intercepted, although we
18 intercepted within it. But what we are showing here
19 illustrating is in-coming out-going calls, texts, or
20 essentially contacts with his cell managers.

21 As I said before, he was a micro manager. He
22 was on top of these guys, talked to them quite
23 often.

24 Going into the circle at the time, these were
25 the cells operating the organization.

1 Starting at the top left. Wilmington, North
2 Carolina. Going right. Little Rock, Arkansas.
3 Lexington, Kentucky. Virginia Beach, Virginia.
4 Providence, Rhode Island. All managers.

5 Phone, Raleigh, North Carolina. Louisville,
6 Kentucky. Michelon, Indiana, Richmond, Virginia.
7 Fayetteville, Arkansas. Nashville, Tennessee.
8 Chelsea, Massachusetts, which is right outside
9 Boston. Cincinnati, Ohio. Manassas, Virginia.
10 Greensboro, North Carolina. And St. Louis,
11 Missouri.

12 Q Now, look at page two of exhibit 9.

13 A Again, a pattern will develop here over the
14 next several exhibits. But on this particular
15 target cell phone two, what is highly significant is
16 is we are seeing calls with the person who is the
17 leader of this organization in Mexico who we have
18 intercepts on.

19 Q Is that first, at the top, the member, and has
20 a Mexican phone number?

21 A That's correct. That's correct. Sorry.

22 And down here below we have Cruz Millan's
23 mother. We have intercepts with him talking to his
24 mom where she clearly identifies him as her son. He
25 identifies her as his mother. And again, this will

1 become more significant over the next two slides.

2 Q Okay.

3 Then turn to page 3 of exhibit number 9.

4 A Again, you see the same pattern. If we compare
5 this to the very first one, these boxes have not
6 changed. They are in the same position and same
7 color. You compare them side by side, they are
8 nearly identical. I won't go through them all
9 again, but he is again talking to all the cell
10 managers on the that new phone. (804) 972-XXXX.
11 That date range is September 13 through November 9
12 of 1020.

13 Q Look at page 4, which is also four target cell.

14 A Again, seeing something that is highly
15 significant. Talking to his mother on this phone.
16 Again, we have those intercepts, very clear.
17 Continue on?

18 Q At the time he would have had this particular
19 phone target cell phone number 4, based on his
20 habits and how you know it works, would he have had
21 other lines as well?

22 A Absolutely. He did have another line, cell
23 phone number 5. We intercepted them together.

24 Q Look at the page. Next page, which is page 5
25 of the exhibit.

1 A You see the date range. October 14 through
2 October 30. This was his least-used telephone. You
3 will see we are missing some boxes here. Again, it
4 was the least-used phone, significantly, but you
5 will see the remainder of these other boxes are in
6 the same place, same color, and he is doing the same
7 communication with these cell leaders.

8 Q Look at page 6, which is target cell phone
9 number 5 for the same date range.

10 A Again, the same trend.

11 Leader in Mexico appeared at the top. And,
12 again, his mother down here. Again his mother's
13 phone number actually we were able to recover from a
14 VISA application that he issued for some years ago
15 that he listed that as his home number in Mexico.

16 Q Look at page 7 of exhibit 9. This target cell
17 phone number 6.

18 A This is a cell phone we intercepted on
19 (910)443-7863, October 13th through November 18,
20 which was, of course, take-down. And, again, you
21 will see the same boxes in the same places, same
22 colors.

23 This shows patterns, the persons, the people he
24 talked to no matter what phone he is using.

25 Q And then the final page of that exhibit, page

1 8.

2 A Again, leader in Mexico. Down here talking to
3 his mother. And even more significant, these
4 numbers, he talked to his mom on, out of 770,000
5 tolls, in excess of 770,000 tolls, these numbers
6 associated with Mrs. Millan are the only -- are only
7 talking to phones that we know to be associated with
8 Israel Cruz Millan.

9 Q Now, through your toll analysis, were you able
10 to identify the numbers you believe Israel Cruz
11 Millan was using at the time of the Arkansas murder?

12 A Absolutely.

13 Q Look at exhibit number 10. Tell us what that
14 is.

15 If we could see page two of that.

16 A Looking at the tolls. The call activity
17 stemming from the victim in Little Rock, Arkansas,
18 which we will get to in a little bit. The cell
19 leader, we were able to isolate this number, more or
20 less jumped out at us. This number matched the same
21 call pattern as Cruz Millan. We were not
22 intercepting at the time. But the call pattern was
23 there. Again, he is talking to all of his cell
24 managers, or the majority of them, at that time.

25 Q The date range is what?

1 A May 1st through July 12, 2010.

2 MR. GILL: We move for admission of exhibit 10.

3 THE COURT: It will be admitted.

4 BY MR. GILL:

5 Q Look at page 2 or page 1.

6 A So, of course, we looked at that and realized
7 it was a leader phone. We dug in even more. This
8 chart absolutely confirmed it. Again, the leader in
9 Mexico, which anybody could have talked to, but,
10 again, this is a real convincing piece of analysis
11 that we discovered was Cruz Millan's mother, talking
12 to Mrs. Millan on that phone, really cementing the
13 fact that was in fact his phone.

14 Q In fact, it has numbers on there. Would those
15 reflect the number of contacts, roughly, back and
16 forth, 77 for one line tied to this number and 50
17 for another line?

18 A That's correct.

19 Q Now, let's look at exhibit number 11.

20 Agent, is this a summary of the numbers
21 connected to some key players back in July of 2010
22 In relation to the murder investigation?

23 A Yes, it is.

24 MR. GILL: Your Honor, we move admission of
25 exhibit eleven.

1 THE COURT: It will be admitted.

2 BY MR. GILL:

3 Q Generally describe this for us.

4 A All right.

5 Cruz Millan, again we know using that number
6 (919)240-1780, again, Edy Oliverez-Martinez, the
7 gentleman convicted of the homicide. He was also
8 cell manager, and then to his right, we have Armando
9 Gonzalez Medina, and Erik Martinez-Ortiz. Those
10 were his runners.

11 Q With respect to these three numbers below those
12 individuals, are those the ones through testimony at
13 trial from S. O. as well as contact information and
14 other avenues that they were identified as being
15 connected to those phones?

16 A Absolutely. These were in fact phone numbers
17 they used at that time.

18 Q Now, look at exhibit number 12. Tell us
19 generally what exhibit 12 is, Agent Joseph.

20 A 12. This is what I refer to as toll records.
21 These are toll records. These are specific reports
22 that we ran to isolate certain numbers. What is
23 shown here is, we took the target cell phone number,
24 which belonged to Pascal Ramos, the victim of the
25 homicide. And it shows contact. This is what got

1 us going on the common link between that homicide
2 organization. We see that Pascal Ramos received an
3 in-coming call right here on from Edy
4 Oliverez-Jiminez on the 4th of truly. Three minute
5 conversation. Followed by several other calls
6 throughout that day. Some short in duration. Some
7 long.

8 Q Is page 2 included contacts between Edy
9 Oliverez-Jiminez number and the number that you
10 believe is connected to Cruz Millan?

11 A Again, that was toll records isolating these
12 two numbers from a date range of July 4 of 2010
13 through July 6 of 2010.

14 MR. GILL: We move admission of exhibit 12.

15 THE COURT: It will be admitted.

16 BY MR. GILL:

17 Q Sergeant -- Agent Joseph, I want to break this
18 up into three parts. From the outset is it fair to
19 say that this summarizes calls between those two
20 numbers for the dates July 4 through July 6 of 2010?

21 A Exactly what it is.

22 Q Okay.

23 Beginning with July 4 tell us generally, do you
24 see any contact between those two numbers and in
25 relative close proximity to the time period that Edy

1 Oliveres-Jiminez was calling the murder victim on
2 page one of this exhibit?

3 A Absolutely. I mean, we see calls starting late
4 afternoon going into evening between Cruz Millan and
5 Edy Oliveres-Jiminez throughout the 4th, even going
6 into the 5th, as far as midnight.

7 He was also -- the chart we just showed,
8 between the victim and Edy Oliveres-Jiminez were in
9 that late afternoon, early evening time frame.

10 Q Now, talk about July 5, which would have been
11 the day before the murder. If you would take your
12 finger and drop it down the side on the far right of
13 the calls you are going to be talking about in
14 relation to that. And particularly tell us about
15 the length of the calls at the end of that night,
16 the very night before the murder occurred.

17 A Well, those were, of course, the two calls that
18 really got our attention. As we are looking at the
19 call pattern activity between this number, which we
20 believe was highly important, both numbers of course
21 being important, but one being possessed by Cruz
22 Millan. There is a substantial phone call late
23 night. Not that late, but I guess 8:00 o'clock and
24 10:00 o'clock. In duration 8 minutes 40 seconds, 6
25 minutes 32 seconds.

1 Q Were there any other calls after that last
2 lengthy call that was at roughly 10:39 p.m. the
3 night before the murder?

4 A No, there wasn't.

5 Q In fact, now moving down to July 6 of 2010.
6 Tell Judge Spencer about the next calls that were
7 placed, and who was placing those calls.

8 A Again, we are looking at the tolls of Edy
9 Oliverez-Jiminez. He received an in-coming call on,
10 starting at 1:16 and followed again at 1:18. Those
11 two time frames being extremely significant because
12 we know the testimony of Adrian Saha at trial, who
13 is a, with Pascal Ramos when he was assaulted. That
14 the attack occurred at approximately 1:00 o' clock.

15 Q This 1:18 call and the 1:16, are we going to
16 come back to those in just a moment?

17 A Oh, yes. Absolutely.

18 Q Okay.

19 And then the final call for July 6 of 2010.
20 Length of that call?

21 A We have an eleven-minute call, 11 minute 8
22 second call.

23 Q Now, turn to exhibit number 13. Fair to say
24 these are generally summaries of cell tower records
25 just right around the time of the murder?

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1 A Yes. These --

2 MR. GILL: We move admission of exhibit 13.

3 THE COURT: They will be admitted.

4 THE WITNESS: This chart was created by FBI
5 Special Agent Creasy of the cellular analysis of the
6 survey team in Washington, D. C.

7 BY MR. GILL:

8 Q Before we get to the no connects, if you would,
9 just tell us about the three pages that are
10 connected to that, and what they are for that
11 exhibit.

12 A What number are we at?

13 Q This is exhibit number 13.

14 A All right.

15 What we are seeing here is --

16 Q This on page two of exhibit 13.

17 A Two, three and four. I will summarize these
18 together to save time.

19 What these show, this is a map of Little Rock
20 Arkansas, specifically 9500 South Ice, represented
21 in the dead center here, which is, of course, the
22 abandoned trailer where the body was discovered.

23 What this chart and these three charts are
24 going to illustrate is what we all have when we use
25 our cell phones, specifically at our home regarding

1 patterns of life. We all have essentially a home
2 tower. Our phone, all our phones are built, or they
3 connect to the closest geographical tower, like to
4 wherever we are, like our home if -- where we make
5 the majority of our calls.

6 This chart shows that the base line, it is the
7 address is, has actually two home towers which is
8 going to be showed by this purple, as well as this
9 blue one over here. You can see the base line road
10 is located in the middle of those two towers. Even
11 more closely you can see it is almost identical
12 geographic distance to the two towers. Showing that
13 it would not only be -- I mean it would be
14 absolutely typical, it would be regular that this
15 phone would regularly bounce off of these two towers
16 when making phone calls.

17 Q And do those pages 2, 3, 4, show connections
18 with the phone numbers associated with Edy
19 Olivarez-Jiminez, Armando Gonzales Medina, and Erik
20 Martinez-Ortiz as connecting with those covering the
21 murder location in the times leading up to and times
22 after the murder?

23 A Per Agent Creasy's testimony and analysis it
24 shows that those three individuals were extremely
25 high probability they were located within that

1 overlap during the time of the homicide, and both a
2 little before and after.

3 Q Look at page one of exhibit 13.

4 A All right. Again, this is -- this is a chart
5 showing what they refer to as cell phone world, as
6 no connect. We have all had a phone call we placed
7 and before we hit the button it doesn't go or
8 somebody says they tried to call us and it just
9 doesn't go through. That occurs when the phone has
10 no signal or the phone is turned off.

11 What this chart shows is there is very, very
12 strong indication that those phones were turned off
13 at the time that Pascal Ramos was abducted and
14 assaulted and killed.

15 There is one very significant exception in this
16 black zone right here on this. It is call 136. It
17 shows --

18 Q The asterisk down below, what does it show?

19 A It says at 1:18 p.m. Edy Oliverez-Jiminez
20 received a 50-second phone call from (919)240-1780,
21 Cruz Millan, which did go through and did hit off
22 the home tower.

23 Q So that is shown by that middle row, no
24 connects from 12:00 o'clock to 2:00 o'clock p.m. at
25 the time of the murder. All three phones connected

Joseph - direct

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1 with those individuals we believe were on the
2 ground, were turned off, were not able to receive
3 calls that were coming in with that one exception?

4 A One exception.

5 Q Now, then, were you able to confirm Israel Cruz
6 Millan's role in the aftermath of the murder, you
7 know, what did he do with respect to the cells?

8 A Following the homicide he ordered Edy
9 Oliverez-Jiminez, Armando Gonzalez Medina and Erik
10 Martinez-Ortiz to leave Little Rock. Sent them to
11 Virginia.

12 Q Take a look at exhibit number 14.

13 MR. SRISKANDARAJAH: Objection. Sorry. To be
14 clear, I object to the statement that he ordered
15 them to leave. There is absolutely no evidence he
16 ordered them to leave.

17 THE COURT: All right.

18 BY MR. GILL:

19 Q Agent Joseph, is this summary of the movement
20 that you found based on cell tower records, cell
21 ledgers, and testimony?

22 A Exactly what this is.

23 MR. GILL: Your Honor, we move admission of
24 exhibit 14.

25 THE COURT: It will be admitted.

1 BY MR. GILL:

2 Q Please look at page one.

3 A Just a simple chart showing exit from Arkansas
4 to Virginia on these dates. Again, confirmed by the
5 cell towers, the cell tower analysis, the ledgers,
6 and the testimony of several phone records -- this
7 shows July 16, talking about the departure date,
8 arrival in Virginia on July 23rd.

9 Q Look at page two. Goes further to show that a
10 swap, a switch, did take place on July 26th
11 consistent with, again, testimony, cell tower
12 ledgers, Alphonso Alcaraz-Palomares, Ricardo Patino
13 left Virginia with his runner, J. M. M., and
14 arriving in Little Rock on or about July 29 of 2010.

15 In fact, did J. M. M. testify at trial about
16 this switch?

17 A He did.

18 MR. GILL: Your Honor, I turn The Court's
19 attention to exhibit 17 pages 43 and 46.

20 Page 43, J. M. M. testifies about seeing Edy
21 Oliverez-Jiminez when he arrives in Virginia Beach
22 on the same day that he and Ricardo Patino left to
23 go to Arkansas. And that occurred at a Food Lion.
24 And then on page 46 the question was asked, "When
25 you saw Arasmo at the Food Lion at the end of July,

1 where had he come from?

2 "Answer: Well, I believe from Arkansas to
3 Little Rock.

4 "Question: On the same day you saw Arasmo at
5 Virginia Beach did you see anybody else that you had
6 met in Little Rock the the first time you came in?

7 "Answer: I think Peruse was there."

8 Who is Persue?

9 A Eric Martinez-Ortiz.

10 Q "Question: Where did you see Peruse?

11 "Answer: When we left we went to Wa Wa, and I
12 believe I saw Muerto there."

13 In fact we have his testimony at trial and in
14 debriefs, did he also talk about admissions that
15 were made by Martiniz-Ortiz about what happened in
16 Little Rock during that meeting at the Wa Wa?

17 A He did.

18 Q Were there also wire intercepts that were
19 retrieved through court-authorized wire taps that
20 referenced, you know, the July 6 of 2010, you know,
21 murder. In very general terms, but also the switch
22 that we have been talking about?

23 A Yes, there were.

24 MR. GILL: Your Honor, I turn The Court's
25 attention to exhibits 15 and 16.

1 We move for admission of both those at the
2 time.

3 THE COURT: They will be admitted.

4 BY MR. GILL:

5 Q And first with respect to exhibit 15, Agent
6 Joseph, if you would tell us who is on that call and
7 when it occurred.

8 A This is call between Edy Oliverez-Jiminez and
9 Pableto or Armando Gonzalez Medina. That call
10 occurred September 15 of 2010.

11 Q Turn your attention to the bottom of page 3.
12 Beginning at line 40, and then going to go over to
13 page 4 down to about line 27 or 28. If you would,
14 you know, using that as reference, explain to Judge
15 Spencer what it is that is going on in this
16 conversation. What are they talking about?

17 A To me they are talking about there was an
18 incident. They were referring to something that --
19 an incident they had both.

20 MR. SRISKANDARAJAH: Judge, I object. He
21 doesn't know.

22 THE COURT: Okay.

23 BY MR. GILL:

24 Q Agent Joseph, with respect to that conversation
25 beginning on page 3 Daniel is Edy Oliverez-Jiminez?

1 A That's correct.

2 Q And Pableto is Armando Gonzales Medina?

3 A Yes, sir.

4 Q Beginning on that page they are talking about
5 Pinya. And Pinya doesn't "give a shit." Who is
6 Pinya in relation to this, these individuals?

7 A Pinya was Alfonso Alcaraz Palomares, who at the
8 the time of the call was cell leader in Little Rock
9 Arkansas.

10 Q Pableto, Armando Gonzales Medina, says "They
11 are back, because," and then the next page, page
12 four, "Daniel," Edy Oliverrez-Jiminez, says, "but
13 you" -- Pableto says, "What about me?

14 "Daniel: You were the one who wanted to kick
15 those guys ass."

16 Pableto says, "You dude, you were there, too,
17 don't bull shit. No fucking."

18 Muerto said "that -- and fuck it, whoever
19 doesn't can leave. But either way he sent all of us
20 to hell, dude."

21 Based on the context of the conversation and
22 your knowledge of the investigation --

23 MR. SRISKANDARAJAH: Judge, again --

24 THE COURT: Sustained. It is what it is.

25 BY MR. GILL:

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1 Q Beneath that it refers to being sent where they
2 were sent, South End, Lafayette and other places.

3 And, Your Honor, I will have The Court read
4 that segment. I am sorry.

5 THE COURT: All right.

6 Q Okay.

7 And then let's talk about exhibit 16. Tell us
8 about who the participants are in this conversation
9 and the date.

10 A This call occurred November 10 of 2010. Call
11 between Israel Cruz Millan and Edy Oliverez-Jiminez.

12 Q We are gong to play a short portion that goes
13 from roughly line 30 on page four and continues over
14 to page 5 line 15.

15 (CD being played).

16 Q In that conversation there is a reference to a
17 guy that was left over in Little Rock. Putting
18 aside that conversation, are you aware of anyone who
19 was left over --

20 A Absolutely.

21 Q -- during the murder?

22 A Absolutely.

23 MR. SRISKANDARAJAH: Judge, I would submit to
24 The Court this is again, as The Court stated, it is
25 what it is.

Joseph - direct

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1 THE COURT: No he can talk about it.

2 THE WITNESS: He was a juvenile victim with
3 Ramos at the time of the assault and homicide and
4 testified at trial in November. He survived.

5 Q Now, I want to turn to Nashville, Tennessee.
6 Agent Joseph tell Judge Spencer who was in charge of
7 that cell leading up to the time of a take-down, and
8 generally what was going on in Nashville just before
9 the take-down.

10 A These calls were to the guy who was running the
11 cell out there in Nashville. Very clear from the
12 intercepts they were having major issues of
13 competition. They were -- these calls are about
14 cleaning against the competition, leading up to,
15 fortunately, take-down November 18, which actually
16 stopped the attack on them.

17 Q Your Honor, we move the admission of exhibit 20
18 and 21, which are the wire intercepts related to
19 events occurring in Nashville, Tennessee.

20 THE COURT: They will be admitted.

21 BY MR. GILL:

22 Q And we are going to play exhibit number 20.

23 Before that starts, what is the date of this
24 call? Who is on that call?

25 A Again, it is Cruz Millan on the target phone,

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1 six conversations with Yvonne Rock Curry, Sam,
2 November 11.

3 Q At this point, Agent Joseph, did you see
4 anything in your investigation that mirrored up with
5 other patterns you had seen with this organization?

6 A Two things immediately popped up. Talked about
7 prepaid phone, getting a phone and then when Cruz
8 Millan referenced finding an empty house to have a
9 party. So very consistent with the Richmond assault
10 as well as what occurred.

11 MR. SRISKANDARAJAH: Judge, I object again.
12 There is evidence that leads -- to make that leap.

13 THE COURT: No, he can testify.

14 (CD being played).

15 BY MR. GILL:

16 Q Okay, Agent.

17 Let's turn to exhibit 21, which we are not
18 going to play for The Court, but we ask Your Honor
19 to turn to page two. That is a very short call.

20 To move things along, Agent Joseph, describe
21 for us in this call between Muerto the defendant and
22 Feo, the manager in Nashville, November 14 or 2010.
23 Who they are talking about and what, based on your
24 knowledge and context of the conversation, this
25 refers to.

1 A Again, short conversation following
2 November 14, following the previous intercept.
3 Talks about, references who we determined are
4 enforcers, cleaners in the organization. Pretty
5 much going, talking, the talk is proceed with a
6 mission, proceed with the cleaning, competition,
7 clean-up competition.

8 It also says, referenced they are going to make
9 sure they take the machine with them. Which would
10 be consistent with what we have seen on other acts
11 of violence perpetrated by the FEO.

12 Q Being the printing equipment, the machine?

13 A That's correct.

14 Q Let's talk about events that occurred in
15 Kentucky, September 24 through 26 of 2010. Take a
16 look at exhibit 25. Is this a summary of selected
17 calls as well as the actual transcripts for those
18 calls?

19 A Yes, sir, it is.

20 MR. GILL: Your Honor, we move admission of
21 exhibit 25.

22 THE COURT: It will be admitted.

23 BY MR. GILL:

24 Q If you would describe for Judge Spencer who the
25 players are, and generally what is going on in that

1 area from September 24th to 26th of 2010.

2 A Again we are looking at another act of violence
3 between Cruz Millan and the Louisville cell leader,
4 Ramirez and -- just to go through the high points?

5 Q The high points. And the first call is
6 September 24th of 2010 at 3:39 p.m. between those
7 two individuals?

8 A Again, this is specifically reference's
9 competition. I am going to read, for time's sake,
10 go over some main point.

11 The number you guys gave me belong to the
12 competition. Okay. Reference competition Ramirez,
13 you know, says, no, no, that is the one of the
14 competition. Again, very clear they are talking
15 about problems they have had very consistent through
16 out the organization. Further on the same call,
17 competition works here. Ramirez has their license
18 plates already. He knows the cars, everything.

19 Q Then on page two at the top.

20 A Muerto says, you know, well, they are going to
21 kick their fucking ass right now. So that is the
22 phone number. Again, all comes back to phone
23 numbers vetting out the competition. Wants to know
24 if in fact it is legitimate. And they move forward.

25 Q And then next the call that occurred on

1 September 26 of 2010 at 12:17 p.m. Between the
2 defendant and Kevin Ramirez?

3 A References competition. References printer
4 used by the competition. Talks about having a bat
5 in the car. You know, talking about assholes they
6 are dealing with. Muerto replies, yes, 'bro. And
7 long screwdrivers. Kintano says further in the
8 call, we are carrying a tool box and the knives in
9 the tool box, and has them at hand for when they
10 encounter these guys.

11 Q Continuing over to page three.

12 A Kintano Ramirez says, we have a machine there
13 so they can do illegal documents and are selling it
14 for \$5,000.

15 Going down to the bottom. We will be alert.
16 Get that address, even better. This is the way --
17 this way we will go after that asshole.

18 Very malicious, very direct and --

19 MR. SRISKANDARAJAH: Judge, I object. Judge --

20 THE COURT: Sustained. Don't editorialize.

21 THE WITNESS: Yes, sir.

22 BY MR. GILL:

23 Q And then next call, bottom of the page,
24 September 26 of 2010 at 12:21 p m.

25 A Continuing the conversation on the competition.

1 Bringing the bats. Ramirez says, bring the bats.

2 Says bring the bats. Honestly it is hot right now.

3 Honestly the police is really hot right now.

4 Q And then turn to page 4, September 26 of 2010,

5 call at 12:33 p m between the defendant and again

6 Kantano Ramirez.

7 A Again, reference the city where this

8 competition exists. Down a few lines. Muerto

9 references, the thing is, we are going to capture

10 the competition in Covington. Covington is a city

11 in Kentucky.

12 Muerto continues. Yes, we already know where

13 the house is. So there has been work from the very

14 first call to this point that they have been digging

15 up this information and figuring out. And goes on

16 to talk about the actual operation. Muerto suggests

17 that, they actually instruct --

18 Q Turn to page five.

19 Generally explain for us what the discussion is

20 and the importance of a woman to the operation that

21 measures up to what happened other places.

22 A Muerto instructing Ramirez to find a Mexican

23 girl, which I understand and have understood through

24 the investigation they find a female to make the

25 call to buy counterfeit documents. Females simply

1 is unassuming, it is less memorable, they --

2 MR. SRISKANDARAJAH: I object to that.

3 THE COURT: Sustained. We can get through this
4 a lot quicker if I do the analysis and not the
5 witness of the evidence. All right. So let's -- I
6 can read it. I understand.

7 MR. GILL: Okay, Your Honor.

8 Then, Your Honor page 6. I won't have the
9 agent testify about that, but that is the conclusion
10 of the conversation.

11 THE COURT: All right.

12 BY MR. GILL:

13 Q Let's talk about Agent Joseph, Boston,
14 Massachusetts, and what was happening in Boston
15 October 10 through 12th of 2010.

16 A Summary is very similar to the call that we
17 just, series of calls we talked about. The Boston
18 group encountered some competition significantly
19 underselling. They were selling the documents for a
20 hundred dollars, which would have been \$60 less than
21 what Cruz Millan's organization was selling them
22 for.

23 Q Okay.

24 Your Honor, we move for the admission of
25 exhibit number 26 which is the summary of selected

1 excerpts as well as the transcripts underlying those
2 excerpts.

3 A They will be admitted.

4 MR. GILL: Generally with respect to Boston,
5 Your Honor, I could have him testify or generally
6 what happened at the conclusion, or give The Court a
7 moment to read through those. However you would
8 like to proceed.

9 THE COURT: I will read them.

10 MR. GILL: Okay.

11 We are getting close to the end.

12 THE COURT: All right.

13 BY MR. GILL:

14 Q Okay.

15 Then, Agent Joseph, I now want to talk to you
16 about the amount of documents moved by the
17 organization and money laundering.

18 First off, describe for Judge Spencer during
19 the investigation were you and the other lead
20 investigators able to derive an estimate of the
21 number of documents being moved by the organization?

22 A Yes, sir.

23 Q What information did you rely upon, and what
24 number did you come up with?

25 A Following the enforcement activity, and after

1 analyzing the results, items seized from search
2 warrants, combined evidence found, analysis of the
3 ledgers, financial work showing volume of wire
4 transfers sent, other expenditures, tabulated the
5 organization very conservatively sold 15 to 20,000
6 counterfeit documents annually.

7 Q Agent Joseph --

8 MR. SRISKANDARAJAH: I object to that. The
9 reason being is that the cross over, what they look
10 at, what they give this Court, has no criteria or
11 formula that they used to come up with that number.
12 They look over this -- they looked over that, and
13 then they come up with a number. There is
14 absolutely no foundation for number, other than
15 their own --

16 THE COURT: You can inquire into the specifics
17 in your cross examination. I understand what it is.
18 It is an estimate, and I will receive it.

19 Go ahead.

20 BY MR. GILL:

21 Q Look at exhibit number 27.

22 And, Your Honor, we move for admission of
23 exhibit 27, which is the analysis based on ledgers
24 received in the investigation.

25 THE COURT: They will be admitted.

1 BY MR. GILL:

2 Q Agent, please explain what we are looking at
3 and how this chart was --

4 A This is a breakdown of our more long-term
5 cells, the analysis of the ledgers that we recovered
6 on the search warrants on November 18.

7 On the left side shows the cell. In the middle
8 shows the date range covered by that ledger. The
9 middle here shows the approximate, or exact number
10 of documents found, counted, tabulated, from these
11 ledgers. We broke that down by average document
12 sold a day and multiplied by the days of the year,
13 giving us an approximation of annual documents sold.
14 That number totals 18,354 documents, which would
15 have been right in the middle of our range, our
16 conservative estimation of 15 to 20,000 annually.
17 Even more significant to that is we excluded five
18 other cells from the equation.

19 Q Are those the cells there? Scroll down. Those
20 sales listed at the bottom, those weren't included
21 in this analysis?

22 A Correct.

23 Q Are some of those cells actually very active,
24 but we didn't recover the ledgers?

25 A Absolutely. Raleigh was as large, or second to

1 Richmond in size.

2 Q Finally, with respect to the accuracy of the
3 numbers that would have been in the ledgers that
4 were counted, how accurate are the numbers in those
5 ledgers?

6 A Oh, the numbers in ledgers are incredibly
7 accurate. They had to be accurate or they were
8 subject to audit, and disciplined by Cruz Millan.

9 Q Now then, through the investigation were you
10 able to identify Western Union as being used to
11 transfer some of the proceeds of the organization
12 back to Mexico?

13 A Yes, sir.

14 Q How was it you were first able to identify that
15 connection?

16 A Within the first week of interception Special
17 Agent Joe Clements, another co-case agent in charge
18 of the financial investigation, he immediately was
19 able to essentially crack the code on, through these
20 intercept text messages, wire communications as
21 well, breaking down the exact method that these guys
22 were using to send money. It all centered around
23 the Western Union transaction number.

24 Further, you know, it involved the amount, the
25 specific amounts that were sent. And the

Joseph - direct

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1 spending -- they were sending. He was able to find,
2 again, very conservative estimate, over a million
3 dollars, a little over a million dollars wired to
4 Mexico in a three-year period.

5 Q Thank you.

6 Government's exhibits 28 is the total analysis
7 you just described, including the back-up
8 documentation for the Western Union transaction?

9 A This is the work Agent Clements has prepared;
10 that is correct.

11 MR. GILL: We move admission of exhibit 28.

12 THE COURT: It will be admitted.

13 BY MR. GILL:

14 Q Does exhibit 28 include the numbers for
15 basically the transactions that were intercepted off
16 the wires?

17 A It does. \$54,230.

18 Q And then transactions that were identified
19 through analysis of significant telephone numbers
20 that were identified as being enterprise phones
21 during the investigation?

22 A It does. \$421,447.

23 Q Finally, an amount that was determined based
24 off the common recipients that were identified in
25 Mexico who would have been receiving these

Joseph - direct

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1 transfers?

2 A Yes, sir. \$571,800, or \$864.

3 Q Grand total of January 1 of 2008 through
4 November 18 of 2010, \$1,047,541 and one penny?

5 A That is it.

6 Q Now, finally was the defendant Israel Cruz
7 Millan interviewed November 18 of 2010?

8 A He was.

9 Q Was -- did he waive his Miranda rights and
10 agree to talk to investigators?

11 A He did.

12 Q Was there an FBI agent who is fluent in Spanish
13 interpreting?

14 A Yes, sir.

15 Q I want to get a couple aspects of that
16 interview. Number one, what did he claim as far as
17 how long he had been the leader of this
18 organization?

19 A He said that he assumed command around August
20 of 2010. So it would have been, he would have,
21 according to his debrief he rose to the level of
22 leader from never being involved in the organization
23 in August and assumed control of the group.

24 Q In fact, during that interview did he claim
25 prior to August of 2010 that he had not been

1 involved with this group?

2 A He advised he came here in late spring, was
3 buying cars here and transporting them to Mexico and
4 selling them across the border.

5 Q Did he make admission during that interview
6 with respect to use of Western Union to send money
7 back to Mexico?

8 A He did.

9 Q How much did he admit to his being responsible
10 to move on a bi-weekly basis?

11 A He was demanded to send back to Mexico 15,000
12 every two weeks, which was incredibly consistent
13 with what Special Agent Clements discovered in his
14 financial investigation; almost to the number.

15 Q In fact, does that work out to roughly, based
16 off the defendant's own number, \$360,000 per year?

17 A That's correct.

18 Q Was he also interviewed about whether violence
19 was used internally in the organization?

20 A He was asked.

21 Q Tell Judge Spencer what he said with respect to
22 use of violence.

23 A Initially said violence was not used in the
24 organization. That if somebody was caught stealing
25 they would be kicked out of the group, and that

1 other people handled competition.

2 Q Was there anything that happened during the
3 interview that changed his view on that answer?

4 A Absolutely.

5 Special Agent Clements played a -- the
6 recording, the intercept of the calls that we heard
7 regarding the Raleigh beating. At the time he
8 played it Special Agent Clements informed me that
9 Cruz Millan's body shrugged, slumped, dropped his
10 head, and then recanted his statement that violence
11 was in fact used.

12 Q Generally, what did he say was going on in
13 Raleigh, North Carolina?

14 A He said that the victim was Chingo -- we heard
15 Chingway -- Chingo was being punished, but he wasn't
16 the primary assaulter, he was -- it was mostly being
17 done by guys named Perone and Yucca, the enforcers,
18 and he actually stopped the beatings, the assault,
19 because he didn't feel it was right.

20 Q Did that conflict with other aspects of your
21 investigation?

22 A Which?

23 Q That answer.

24 A Inconsistencies were throughout.

25 Q No further questions, Your Honor.

Joseph - cross

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1 THE COURT: All right.

2 CROSS EXAMINATION

3 BY MR. SRISKANDARAJAH:

4 Q Thank you, Your Honor.

5 The Court's indulgence, Your Honor.

6 Agent, you said that Mr. Millan was the head of
7 the organization.

8 A Domestically.

9 Q Domestically.

10 But you do admit that he got all of his orders
11 from the person in Mexico?

12 A I wouldn't say all of his orders.

13 Q Isn't it true that you were advised by
14 Mr. Millan that he did, he only did what he was told
15 to do?

16 A That might be what he said in the debrief, but
17 we intercepted calls with an individual who was
18 clearly the leader in Mexico. He did hand down
19 instructions. Cruz Millan also took care of a lot
20 of the -- the ledgers, significant other daily
21 operations on his own.

22 Q But the objectives were handed down by the boss
23 in Mexico; correct?

24 A On occasions they were.

25 Q Okay.

1 Now, turning to Little Rock.

2 Isn't it true that nobody at no point has tied
3 Mr. Millan to the Little Rock. That was the
4 co-defendant.

5 A As far as being physically present?

6 Q Yes.

7 A No, he was not physically present.

8 Q In fact, nobody has said that Mr. Millan even
9 really knew about the incident prior to it occurring
10 in Little Rock; isn't that true?

11 A Repeat that for me one more time.

12 Q None of the co-defendants have made any
13 statements that Mr. Millan knew about the incident
14 of Little Rock prior to it occurring?

15 A No, sir. We have not received direct firsthand
16 knowledge that anyone knew that he knew about it
17 beforehand.

18 Q Do you agree with me?

19 A That is correct.

20 Q Okay.

21 Turning to the questioning of Mr. Millan when
22 he was in custody. At no point he admitted to any
23 involvement with Little Rock.

24 A As far as daily operations or the homicide?

25 Q The homicide.

1 A That's correct.

2 Q And you do admit that after some initial denial
3 he did admit to the Raleigh incident, right?

4 A He kind of had to.

5 Q I understand that. But never at any point did
6 he make any admissions as to being involved with the
7 homicide in Little Rock?

8 A No, he did not.

9 Q Okay.

10 On the transcript on page 49 J. M. M. clearly
11 states Cruz Millan did not know about it; correct?

12 A That is what he testified to. I don't believe
13 he would ever know. He was a runner. There was a
14 clear, defined, role, responsibility.

15 Q But J. M. M. did not --

16 A He would not be privy to that information.

17 Q Okay.

18 You said that he is a micro manager. That is
19 solely because he simply used to make frequent
20 contact with other people involved in the
21 organization; correct?

22 A Far more than that. These weren't social
23 conversations.

24 Q Okay.

25 Let's turn to what is marked as government's

1 exhibit 12.

2 If I could get that second page, please.

3 With the exception of one call coming in from
4 Mr. Millan, all the calls are going out; right?

5 A No, these are tolls based off of the 3799 on
6 the left. So we have based off of 3799 received
7 from Cruz Millan an "N" next to it, incoming, that
8 he received 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12,
9 13, 14, 15 in-coming calls.

10 Q Let me phrase it another way.

11 A Okay.

12 Q Can you pinpoint as to exactly what time the
13 physical act took place?

14 A Right, approximately 1:00 o'clock.

15 Q 1:00 o'clock.

16 A Let me put it this way. He entered the trailer
17 around 1:00 o'clock.

18 Q All right.

19 But, you weren't able to have a wire tap on any
20 of these phone calls, right?

21 A That is before we intercepted any phone.

22 Q Okay.

23 You also talk about what, who is known as
24 Sanchez-Acosta. Isn't it true that Mr. Acosta told
25 you that "mission" could be a variety of different

1 things?

2 A I believe so. I am not sure. Are you
3 referring to debrief or referring to his testimony?

4 Q To a debrief.

5 A I was -- he was debriefed multiple times. I
6 believe that is what he said. I can't be a hundred
7 percent sure. I wasn't there for all of them.

8 Q Okay.

9 Your Honor, may I have this handed to --

10 THE COURT: Sure.

11 Q -- the witness?

12 Agent, could you please state to the The Court
13 what were the definition of "mission" given to you
14 by Mr. Acosta?

15 A This is accurate as far as what he told, and
16 what we heard off the intercepts.

17 Q There were at least three sets of -- would you
18 read this for The Court?

19 A Word for word?

20 Q Please. Just the highlighted portion.

21 A Okay.

22 The investigative report 122. "Sanchez-Acosta
23 explained that a mission could be defined as a -- in
24 a number of different ways. A mission could be when
25 Cruz Millan asked for money or when a runner was

1 sent to another state to deliver something, or when
2 a machine broke and the jobs would have to be made
3 in another state."

4 Q No mention of "violence?"

5 A Not in the specific instance, no, sir.

6 Q All right.

7 Thank you. If I may have that back.

8 A Certainly.

9 Q Isn't it also true that Mr. Acosta in his
10 debriefing made multiple versions of what happened
11 in Raleigh?

12 A Any specific instance you are referring to?

13 Q In the first debriefing said he wasn't even
14 present; correct?

15 A Sir, without the report in front of me, if that
16 is what the report says, then maybe that is
17 accurate. I don't have the report in front of me.
18 I am not comfortable testifying to that.

19 Q Okay.

20 Court's indulgence?

21 THE COURT: Sure.

22 MR. SRISKANDARAJAH: Your Honor, may I have
23 these two reports handed to the agent, please?

24 THE COURT: All right.

25 BY MR. SRISKANDARAJAH:

1 Q I will start with this one.

2 Agent in that debriefing, that was the first
3 debriefing of Mr. Acosta?

4 A This was the first time he talked to agent. He
5 talked to Bennett and Agent Rebe down in Little
6 Rock.

7 Q In that he states that he was not even present.
8 He left Raleigh before the incident; correct?

9 A That is what the witness says. And I believe
10 from what I recall there were major inconsistencies
11 throughout this particular debrief, which would not
12 be at all uncommon to any of the other --

13 Q That is not what I asked you. But he did state
14 that he was not present at the Raleigh incident;
15 correct?

16 A I believe so.

17 Q And then how many other debriefings did you
18 have with him?

19 A Maybe two other ones. Potentially two or three
20 maybe.

21 Q Okay.

22 It was only after the third one, it was only
23 during the third one you finally got a different
24 picture from what he originally told you in the
25 first one; correct?

1 A Again, sir, I would have to re-read all these
2 reports.

3 Q I will hand this to you.

4 A Just so The Court understands, when was the
5 first debriefing, sir?

6 Sir -- oh first? December 6 of 2010.

7 Q And what is the date I just handed to you?

8 A May 23rd, 2011.

9 Q Okay.

10 A Do you want me to read the whole thing?

11 Q If that refreshes your recollection, isn't that
12 when he finally gives you a quote, unquote, debrief?

13 A This was a far more thorough debrief.

14 Q Okay.

15 A Again, very, very common.

16 Q Okay.

17 Could I have it?

18 A Sure.

19 Q So a substantial time after his original
20 statement to you, or to the agent, is when he
21 switches up his story; is that correct?

22 A He gave a better version of his story, more
23 thorough version of his story.

24 Q Okay.

25 With the exception of the statements made by

1 Mr. Millan about internal discipline, there is no
2 evidence that Mr. Millan was tied to any overt acts
3 of violence; correct?

4 A Internally?

5 Q Yes. With the exception of internal violence.

6 A I believe J. M. M. testified to the fact he was
7 present for internal.

8 Q Not questioning --

9 A External? Was he linked to any external?

10 Q Yes.

11 A As far as his involvement, or actually being
12 physical --

13 Q First of all, did --

14 A I think overt is dictating and instructing
15 somebody to do something.

16 Q Okay. Was he physically present for anything?

17 A Not that I am aware of.

18 Q All right.

19 Turning to the ledger that you discovered.

20 A Which one?

21 Q The one that you all used to create your
22 analysis of how many documents were sent, or how
23 many documents were produced.

24 A Referring to the exhibit that we compiled off
25 of the 15 or so different ledgers that we recovered?

1 Q Yes.

2 A Okay.

3 Q Have you ever been able to -- whose handwriting
4 was on those ledgers?

5 A We have not done a handwriting analysis on any
6 of them, exemplars.

7 Q Now, you don't deny that in the past people,
8 different members of the organization, have done or
9 made fraudulent statements to Mr. Millan; correct?

10 A They may have. I don't really know. All I can
11 testify to is what we heard on intercepts.

12 Q Certainly there were instances where people
13 were stealing, lying about making sales; correct?

14 A No, sir, not that jumped out at us.

15 Q Okay.

16 The only -- the one thing you can conclusively
17 state based on Mr. Millan's statement himself is
18 that he was required to send across 15,000 every two
19 weeks?

20 A Every two weeks.

21 Q Okay. That would be the only thing you could
22 rely on to make a determination as to how much money
23 he sent across?

24 A No, absolutely not.

25 Q Well --

1 A Financial affidavits, financial write-ups,
2 detailed the wire transfers associated with the FTO
3 sent to Mexico over a three-year period totaling
4 conservatively in excess of a million dollars.

5 Q Were they all done by Mr. Millan? Were all the
6 monies sent across by Mr. Millan?

7 A The write-up slows initially on the first page
8 the amount.

9 Q I understand.

10 A I don't know.

11 The amount shows \$54,230. These are the
12 actual, we heard him involved in the intercepts. We
13 know that for sure. These other ones -- again,
14 Special Clements composed this in great detail. It
15 shows, the formula he came up with, the pattern, the
16 analysis. Everything in here is corroborated off of
17 what they did, how they operated, who sent it, who
18 received it.

19 THE COURT: The question was a simple one.
20 Each one of these transactions had to be approved by
21 him?

22 THE WITNESS: Directly, no.

23 THE COURT: All right.

24 BY MR. SRISKANDARAJAH:

25 Q Thank you.

1 Last question, sir, is, at no point, at no
2 point during any of your debriefings of Mr. Millan
3 or anyone else, nothing tying him to Little Rock
4 other than phone calls, that you have no knowledge
5 of what was said on those phone calls.

6 A I believe I answered that already, that's
7 correct.

8 Q Okay.

9 Nothing further, Your Honor. Thank you.

10 THE COURT: Anything else from the government?

11 MR. GILL: Briefly, Your Honor.

12 REDIRECT EXAMINATION

13 BY MR. GILL:

14 Q Agent Joseph, first with respect to Dorien
15 Sanchez-Acosta. The interview that is referenced by
16 the defense, the first interview that occurred
17 following his arrest. Was he cooperating at that
18 time?

19 A Not as far as through coordinated with the U.S.
20 Attorney's office or anything. He reached out to an
21 agent.

22 Q And then the second debriefing that I pointed
23 to that occurs on May 23rd of 2011, was that at a
24 point that he was cooperating and under a plea
25 agreement and actually sat down for the first time

1 with you and other investigators to talk about what
2 happened?

3 A Absolutely. If I recall correctly, he had
4 counsel present.

5 Q Is it uncommon in your experience that
6 individuals when they are first arrested that they
7 are not completely truthful about what happened?

8 A Extraordinarily common.

9 Q Now, you were being asked about whether there
10 were other, specifically other individuals who have
11 been interviewed who referenced the defendant's
12 involvement in other acts of violence against
13 members internally. Are you familiar with J C V who
14 was interviewed in this case?

15 A I am.

16 MR. SRISKANDARAJAH: Judge, I am going to
17 object. That is not what I asked. I specifically
18 asked only as to external. Not internal.

19 THE COURT: This relates to internal?

20 MR. GILL: It does. I believe he asked him.

21 THE COURT: No, that is conceded it is
22 internal, so there is no --

23 BY MR. GILL:

24 Q And then finally with regard to external, are
25 you aware of J C V describing events that occurred

1 in Cincinnati, Ohio where the defendant was
2 involved?

3 A Yes, sir.

4 Q Generally describe that for us. J C V was
5 ordered to go to Cincinnati where one of their own
6 had been assaulted by a competitive group. Actually
7 badly hurt. And I believe their equipment may have
8 been also stolen. JCV went out with other FTO
9 members and stayed in a hotel that was provided by
10 Cruz Millan. The mission or the instructions were
11 to find the phone numbers of the other document
12 sellers or manufacturers so they could retaliate.

13 MR. SRISKANDARAJAH: Objection, again, to that
14 statement, Judge. I don't believe there was any
15 evidence that they could substantiate. Simply, I
16 believe that the evidence would show that just to
17 get the phone numbers. Nothing beyond that.

18 THE COURT: All right. I hear you.

19 BY MR. GILL:

20 Q Agent, I turn your attention to the report
21 regarding that interview. Page 5. The J C V
22 providing details with respect to, that the purpose
23 was to find the competition for retaliation.

24 A Retaliation. Could be planned against rival
25 document groups.

JOSEPH - recross

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1 MR. GILL: No further questions; Your Honor.

2 THE COURT: All right.

3 Thank you, Agent. You may stand down.

4 THE WITNESS: Thank you.

5 (Witness stood aside)

6 MR. GILL: With that we rest. No further
7 witnesses.

8 THE COURT: All right.

9 MR. SRISKANDARAJAH: I would like to ask the
10 Agent one question as to retaliation.

11 THE COURT: Go ahead.

12 MR. SRISKANDARAJAH: Thank you, Your Honor.

13 RECROSS EXAMINATION

14 BY MR. SRISKANDARAJAH:

15 Q Agent, since that was opened up now --

16 A Yes.

17 Q -- in the past was it part of the
18 organization's technique to simply turn law
19 enforcement on to competitors?

20 A You are asking if the practice was to turn, rat
21 out? I don't know what instances there where that
22 occurred.

23 Q So retaliation could mean simply get the cops
24 involved so they could be taken out; correct?

25 A That would make no sense, since -- Cruz Millan,

1 as well as other members, as well, were summoned,
2 took place, to look at those numbers. He says, also
3 said there enforcers that were present.

4 Q Okay.

5 No further questions of this witness.

6 THE COURT: Thank you, Agent. You may stand
7 down.

8 THE WITNESS: Thank you.

9 THE COURT: The government has rested.
10 The defendant, do you have any evidence?

11 MR. SRISKANDARAJAH: I do, Your Honor.

12 Court's indulgence, Your Honor.

13 THE COURT: Let's take about ten minutes.

14 (A recess was taken)

15 THE COURT: All right.

16 Defendant?

17 MR. SRISKANDARAJAH: Your Honor, I would like
18 to call Mr. Alfonso Alcaraz-Palomares.

19 THE COURT: All right.

20 ALFONSO ALCARAZ-PALOMARES.

21 WAS SWORN AND TESTIFIED AS FOLLOWS:

22 DIRECT EXAMINATION

23 (Through interpreter)

24 BY MR. SRISKANDARAJAH:

25 Q Sir, please state your name for the record.

1 A Alphonso Alcaraz-Palomares.

2 Q How old are you?

3 A 33.

4 Q Okay.

5 Do you know Mr. Cruz Millan?

6 A Yes.

7 Q Okay.

8 At some point you were transferred to Little
9 Rock from Virginia Beach?

10 A Yes.

11 Q When -- who told to you go there?

12 A Israel.

13 Q Okay. And did he tell you why you needed to go
14 go there?

15 A Because there was nobody, nobody that was
16 there.

17 Q Okay.

18 When he asked you to go there did he make any
19 reference to any kind of violence that had taken
20 place in Little Rock?

21 A No.

22 Q Now, what was your role in the, in the
23 organization?

24 A I was one of the managers that did the job.

25 Q Okay.

1 Did Mr. Millan ever, paraphrasing, but did
2 Mr. Millan ever come to you and say something along
3 the facts, if any of -- I am planning an attack on
4 somebody in Little Rock and after it is over I am
5 going to need you to go to Little Rock?

6 A No.

7 Q Do you recall approximately when you first
8 found out you were going to go to Little Rock?

9 A When he arrived, one or two days before I went
10 to Little Rock.

11 Q Who arrived?

12 A Israel.

13 Q Okay.

14 At any point did you ever find out about any
15 kind of attack in Little Rock?

16 A Yes, I did find out about it, an attack that
17 occurred there.

18 Q And that was after the attack had occurred?

19 A Yes.

20 Q Who told you?

21 A Well, through all the people, all the Hispanic
22 people that were all talking about it, and through
23 all of them I found out.

24 Q Did any of them ever mention that Mr. Millan
25 had anything to do with the attack in Little Rock?

1 A No.

2 Q In the community would people know who in the
3 organization that were part, a part of -- would
4 people know if an attack had been ordered?

5 A Well, that I know; no, no.

6 Q After talking -- after the people in the
7 organization were talking about the attack in Little
8 Rock, there was absolutely no mention of Mr. Millan
9 having anything to do with the attack?

10 A No, no, they didn't say anything about that.

11 Q Okay.

12 No further questions for this witness, Your
13 Honor.

14 THE COURT: Any questions from the government?

15 MR. COMBS: Yes, Your Honor.

16 CROSS EXAMINATION

17 BY MR. THOMPSON:

18 Q Good morning, sir.

19 A Good morning.

20 Q You first joined the organization in 2004,
21 right?

22 A Yes.

23 Q And then you came in as a cell manager in
24 Little Rock, Arkansas in February of 2009; right?

25 A Yes. True.

1 Q And who appointed you cell manager in 2009?

2 A Israel.

3 Q By Israel, who do you mean? Please point out
4 who you are talking about.

5 May the record reflected he pointed to the
6 defendant?

7 THE COURT: The record so reflects.

8 BY MR. THOMPSON:

9 Q At some point did you go to Virginia Beach in
10 August of 2009?

11 A Um hum. Yes.

12 Q Who told you to go to Virginia Beach?

13 A Israel.

14 Q Did you stay in Virginia Beach until the
15 defendant, Israel Cruz Millan, told you to go back
16 to Little Rock?

17 A Yes.

18 Q That was in the end of July of 2010?

19 A Yes.

20 Q He told you in person, right? He came to
21 Virginia Beach?

22 A Yes.

23 Q And when he met you he also told you there was
24 a problem in Little Rock; right?

25 A He just told me that I had to go there because

1 they were very low on people there.

2 Q And you recall meeting with investigators on
3 May 13th of 2011; is that right?

4 A Um hum.

5 Q And you were meeting with us pursuant to a
6 cooperation agreement?

7 A Yes.

8 Q And do you recall at that meeting telling
9 investigators that Israel told you there had been a
10 problem in Little Rock, and that was why you were
11 going back?

12 A Gosh, I didn't remember but --

13 Q But -- and then you at some point also spoke
14 with Arasmo, Edy Oliverrez; right?

15 A Yes.

16 Q He told you about someone who had been killed
17 in Little Rock, right?

18 A Yes.

19 Q And you talked to Israel and tried to talk to
20 him about that incident, didn't you?

21 A Um hum.

22 Q But he refused to talk to you and kept changing
23 the subject; is that right?

24 A Yes.

25 Q So he didn't want to talk about something?

1 MR. SRISKANDARAJAH: Objection.

2 THE COURT: He can't tell you what was in
3 somebody else's mind.

4 BY MR. COMBS:

5 Q Now, let's talk about the competition.

6 One of the rules of the organization was that
7 you were to get the phone numbers of the
8 competition; right?

9 MR. SRISKANDARAJAH: Judge, this goes beyond
10 the scope of my direct.

11 THE COURT: No.

12 THE WITNESS: Could you repeat the question,
13 please?

14 BY MR. THOMPSON:

15 Q You were responsible as a cell manager for
16 getting phone numbers from the competition.

17 A Yes.

18 Q Who did you give the phone numbers to once you
19 got them?

20 A Israel.

21 Q You told investigators on May 11 of 2011 that
22 you gave them the numbers so that he could either
23 fight or talk with the competitors, right?

24 THE INTERPRETER: The interpreter requests a
25 repetition. To fight?

1 BY MR. THOMPSON:

2 Q Fight or talk with the competitors.

3 A I would just give it to him, and then I don't
4 know what would happen there.

5 Q But you told investigators --

6 MR. SRISKANDARAJAH: Objection. Asked and
7 answered.

8 THE COURT: No. You can go ahead and try to
9 clarify it.

10 BY MR. THOMPSON:

11 Q So, but you told investigators that you thought
12 the reason was to fight or talk?

13 MR. SRISKANDARAJAH: Objection.

14 THE COURT: The objection is sustained. You
15 are asking him to speculate now.

16 BY MR. THOMPSON:

17 Q Now, when you -- who did you talk to to get
18 resource materials for printing documents?

19 A Israel.

20 MR. SRISKANDARAJAH: Clearly goes beyond the
21 scope of my direct.

22 THE COURT: The witness is here. You brought
23 him here. He can ask him questions. .

24 MR. THOMPSON: I will be very brief.

25 Also, you sent money back always at the

1 direction of Israel Cruz Millan; correct?

2 THE WITNESS: Yes.

3 BY MR. THOMPSON:

4 Q But he told you what to do on a day-to-day
5 basis.

6 No further questions.

7 THE COURT: All right.

8 Anything further?

9 MR. SRISKANDARAJAH: Yes, Judge.

10 REDIRECT EXAMINATION

11 BY MR. SRISKANDARAJAH:

12 Q Senior -- sorry.

13 Sir, you said that you talked to Edy about the
14 violence that occurred in Little Rock?

15 A Um hum.

16 Q Did Edy say that Mr. Millan, Cruz Millan, had
17 anything to do with the violence in Little Rock?

18 A No. Not to me. No, he didn't.

19 Q Did he ever say anything to the effect of Cruz
20 Millan didn't know anything about it?

21 A No, he didn't say anything like that.

22 Q Okay.

23 Did Mr. Millan ever -- you were one of the cell
24 managers; correct?

25 A Yes.

Zuniga-Galvan - direct

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1 Q To the best of your knowledge when you were a
2 cell manager did Mr. Cruz Millan ever order violence
3 against any of your competitors?

4 A No.

5 Q Nothing further.

6 THE COURT: Thank you, sir.

7 You may stand down.

8 (Witness stood aside)

9 MR. SRISKANDARAJAH: I ask for Luis
10 Zuniga-Galvan.

11 THE COURT: All right.

12 Luis Zuniga-Galvan.

13 LUIS ZUNIGA-GALVAN

14 WAS SWORN AND TESTIFIED AS FOLLOWS:

15 DIRECT EXAMINATION

16 BY MR. SRISKANDARAJAH:

17 Q Sir, please state your full name for The Court.

18 A Luis Zuniga-Galvan.

19 Q Do you know Mr. Cruz Millan?

20 A I met him the day that I was charged.

21 Q Okay.

22 You have talked to Mr. Millan in the past,
23 prior to that; correct?

24 A On the phone?

25 Q Yes.

1 A Yes.

2 Q And do you remember a time on or about
3 November 2010 talking to him about the competition?

4 A Yes.

5 Q Do you recall a time when during that
6 conversation Mr. Muerto, Mr. Cruz Millan, said,
7 let's do something evil to them, don't you think, or
8 something like that?

9 A No, I don't remember that.

10 Q Okay.

11 In the organization that you were a part of
12 when the word "Tios" is used; what does it mean?

13 A Tios?

14 Q Tios. T-I-O-S.

15 A Policeman.

16 Q Okay. Do you remember having a problem with
17 the competition in your area?

18 A Yes.

19 Q Do you remember Mr. Millan asking you to find
20 out who the competition was?

21 A Yes.

22 Q Do you recall Mr. Millan ever telling you, find
23 out who they are, and we will turn them over to the
24 police?

25 A Yes.

1 Q In the past had Mr. Millan ever told you to
2 turn people over to the police? Competition?

3 A Just that one time.

4 From then on he didn't talk again about
5 competition or policemen.

6 Q Okay.

7 I have no further questions for this witness,
8 Your Honor.

9 THE COURT: Anything from the government?

10 MR. GILL: Yes, Your Honor.

11 CROSS EXAMINATION

12 BY MR. GILL:

13 Q Mr. Galvan, my name is Mike Gill, U.S.
14 Attorney's office.

15 We have never spoken before, have we?

16 A No.

17 Q Now, sir, with respect to your involvement in
18 the organization. Who was it that was in charge of
19 directing acts and dealing with competition?

20 A Like what was happening? Like what I had to
21 give?

22 Q Yes.

23 A Well, to Mr. Cruz Millan.

24 Q In fact, isn't it true, sir, that with respect
25 to acts involving competition that Israel Cruz

1 Millan was in charge of the decision that you are
2 aware of?

3 A Well, I imagine so, because everything -- we
4 had to tell him everything.

5 Q So he was aware of what you were doing in
6 Boston, Massachusetts?

7 A Well, the time I would call him I would tell
8 him what was going on.

9 Q And you would never do anything to the
10 competition without him knowing about it, would you?

11 A Yes.

12 Q In fact, sir, when you were talking about your
13 acts and passing information about the competition
14 up to Israel Cruz Millan around the October 2010
15 time frame, do I have that right?

16 A Um hum.

17 Q That is a "yes?"

18 A Yes.

19 Q In fact, the problem was, does it sound
20 familiar that the competition was selling documents
21 for a hundred dollars a set, \$60 below what you were
22 supposed to be selling them for?

23 A Um um. Yes.

24 Q And there were various people up there who were
25 helping you out with that situation, weren't there?

1 A Yes, there were two people.

2 Q In fact, was there an individual referred to as
3 Pedrino?

4 A Pedrino?

5 Q How about an individual known as Pelone or
6 Doberman?

7 A That I remember, no.

8 Q Are you aware after you reported this
9 information to Israel Cruz Millan that agents
10 intercepted another call between him and another
11 unknown male who was helping you up there in Boston?

12 A I don't know who -- if you could explain to me
13 a bit better.

14 Q Absolutely.

15 Would it surprise you to learn that during the
16 conversation that occurred the same day that you
17 reported this information to Israel Cruz Millan that
18 he is talking to somebody about, "Well, just find
19 out, and I quote, who they are. We might as well,
20 when I go up there we can beat the shit out of them.
21 Fuck it, we might as well."

22 MR. SRISKANDARAJAH: Judge, I am sorry --

23 THE COURT: Sustained.

24 BY MR. GILL:

25 Q Were you involved in following the competition

1 on October 12, 2010?

2 A No.

3 Q Are you aware that other individuals were
4 actually in a vehicle following the competition as
5 they were driving a 2004 red Windstar?

6 A No, I didn't know about that then. I found out
7 about that later.

8 Q What did you find out about it later?

9 A About that. What you are saying about they
10 were following them. That I found out about that
11 after I was arrested.

12 And my attorney, my attorney was the one who
13 told me about that.

14 THE COURT: All right. Let's move.

15 You keep asking, is he aware of stuff, and he
16 he got information from his lawyer, and then another
17 lawyer, and he doesn't know a darn thing about it.
18 Come on.

19 BY MR. GILL:

20 Q You testified on direct you weren't aware of
21 any other instances in Boston where you were trying
22 to find competition for the defendant.

23 I am sorry. You testified on direct that you
24 were not involved in any other instances aside from
25 this one in trying to find competition for the

1 defendant.

2 A Exactly, yes.

3 MR. GILL: Your Honor, I am going to mark this
4 as Government's exhibit 29.

5 It is a November 14, 2010 wire intercept
6 transcript involving the defendant and Luis
7 Zuniga-Galvan in which they were discussing the
8 competition.

9 I don't have the recording here in court. Can
10 I read the portion that is attributed to him?

11 THE COURT: Go ahead.

12 THE INTERPRETER: The interpreter would request
13 a copy.

14 MR. GILL: This is the only copy I have.

15 May I approach?

16 THE COURT: Sure.

17 MR. GILL: Thank you.

18 BY MR. GILL:

19 Q Sir, in this recording between you and
20 defendant Muerto it has that you -- your nickname
21 was Ronna; correct?

22 A Well, there they put me down as Ronna, but I am
23 Ramuna.

24 Q Okay.

25 During this conversation you say, "Okay, so

1 then I am going to drive around and check out the
2 competition. Right?"

3 Muerto responds, "All right."

4 You say, "And when I have, when it's true, when
5 it is a hundred percent, then, true, then I will
6 call you. All right."

7 And Muerto responds, "That is fine."

8 Isn't that a fact, sir, that you are discussing
9 following the competition for him?

10 A Yes.

11 But that was just to get rid of him. Nothing
12 was done with that. I just kept saying, yes, yes, I
13 could so he wouldn't keep bugging me. And that is
14 why I would say that.

15 Q May I have one moment, Your Honor?

16 No further questions, Your Honor.

17 THE COURT: All right. Anything else?

18 MR. SRISKANDARAJAH: One moment.

19 One very brief question, Judge.

20 REDIRECT EXAMINATION

21 BY MR. SRISKANDARAJAH:

22 Q Sir, I may have already asked this question. I
23 apologize to The Court in advance if I have.

24 Do you know whether Mr. Millan ultimately
25 reported the competitors to the police?

1 A I don't know. The thing was that one time that
2 he told me to get the information about the
3 competition so that he was going to call the police
4 on them. And then he was going to call the police.
5 And then that is all that I know about that.

6 Q Nothing further, Your Honor.

7 THE COURT: You may stand down, sir.
8 Anything else from the defendant?

9 MR. SRISKANDARAJAH: No, Your Honor.

10 Thank you, Your Honor.

11 THE COURT: All right.

12 I will hear brief argument on the motion.

13 MR. GILL: Your Honor, the guideline range
14 before The Court is 235 to 293 months and doesn't
15 account for many, many, key things that are
16 connected to this defendant's conduct on behalf of
17 the enterprise.

18 That guideline range, number one, doesn't take
19 into account the sheer violence and terror that he
20 spread on that October 29, 2010 call. It takes into
21 account the kidnapping, but it does not account for
22 the level of violence that he used against El
23 Chingway, the victim of that attack. Doesn't
24 account for the fact that he extended that torture,
25 and was tortured over two separate phone calls, at

1 length, subjecting that victim to severe beatings on
2 the call for brothers in the organization to hear.

3 It doesn't take into account the other acts
4 that Agent Joseph testified about.

5 I will talk in a minute briefly, but there is a
6 whole laundry list of things that aren't even
7 factored into it, including the organization under
8 his control, connections to the murder in Little
9 Rock, Arkansas, all of these violent acts that he
10 directed as shown by the wire intercepts in
11 Nashville, Tennessee, Covington, Kentucky and
12 Boston, Massachusetts. And there is many many
13 others that we definitely don't know about because
14 frankly, Your Honor, illegal aliens don't report
15 these attacks. The only way law enforcement comes
16 across these is if we have them on radar.

17 The guidelines don't account for the money
18 laundering activities where they are sending over,
19 easily over \$360,000 a year back to Mexico in
20 illegal proceeds. It doesn't take into account that
21 they are pushing, and I believe it is conservative
22 and fair, well within what is before this court to
23 say moving about 20 documents a year.

24 Other defendants who appeared before this court
25 received significant departures based on all that

1 conduct.

2 Now, when we look at the nature and
3 circumstances of this offense and everything that he
4 did. I believe his name hits him well. Muerto, the
5 dead one. He is all about terror. The enterprise
6 that has been before this court for over a year now
7 does not work without a Muerto at the helm.
8 Enterprise such as this does not work without terror
9 being struck in the heart of those who work for him,
10 as well as the competition that falls in their path
11 of the organization. The pattern of violence is
12 staggering. And it shows that he has no remorse
13 whatsoever.

14 They have he had no intention of changing his
15 behavior in light of what happened in Little Rock,
16 Arkansas. Now, he was not on the ground in Little
17 Rock. But, Your Honor, I believe that it is fair
18 based on the evidence before this court, knowing how
19 the organization works, including testimony of two
20 witnesses who testified on behalf of the defense,
21 nothing happened in this enterprise without Israel
22 Cruz Millan being involved in the decision.

23 Everybody is instructed across the board to
24 identify the competition, to report it up the chain,
25 and then he sets the retaliation and he gives the

1 orders for the attack, the attack such as the one
2 that occurred in Chesterfield, Virginia back in June
3 of 2009. And then the attack occurred July 16,
4 2010. And with respect to July 6 of 2010, we
5 believe that the background knowledge about the
6 pattern of organization plus the evidence before
7 this court shows unquestionably he was involved as a
8 supervisor, unquestionably he was aware of what
9 happened. Toll records don't lie. And we have tied
10 them to that number 240-1780 that is referenced in
11 exhibit ten that Agent Joseph testified to.

12 That number is calling his mother during the
13 same time period it was his phone. What are the
14 odds, Your Honor? It is beyond reason, frankly,
15 that Edy Oliver Jiminez, the man convicted at trial
16 for that murder, is talking to Israel Cruz Millan
17 the night before that occurs, on July 5 of 2010.
18 And they have 17 minutes total of conversation. In
19 fact, I believe 19 minutes. That is on Government's
20 exhibit 12. They have a long conversation. If you
21 look at the same toll records the very next call
22 between them is when the defendant is calling Edy
23 Oliverez-Jiminez at the time the murder falling. I
24 believe it is reasonable they had established that
25 he was going to contact them at the time that the

1 attack was occurring to check on the status and to
2 get an update. And when you look at that pattern in
3 connection with Government's exhibits, I believe it
4 is 13, that is the toll -- the brief summary about
5 what was going on with the three phones that we know
6 were at the murder location, those phones, every one
7 of them, were turned off at the time he is being
8 murdered. Several calls go in, none are received,
9 except for one call, one call that at 1:18. And,
10 Your Honor, looking at that, that means that Edy
11 Oliveres-Jiminez had to turn his phone on to accept
12 that call that came in from the defendant, because
13 Edy Oliveres-Jiminez knew his boss was going to be
14 contacting him to check on what is going on in
15 Little Rock, Arkansas.

16 He knew exactly what was going on. He ordered
17 the competition -- the attacks like they have done
18 in every other instance -- and the other calls that
19 we have just show his involvement in that. He was
20 involved. He knew what was happening. I am sure he
21 did not order the murder of Pascal, but he ordered
22 the attack of the competition and the events led to
23 the unfortunate death of that 17 year old.

24 The phone calls afterwards tell the tale that
25 he was heavily involved. Government's exhibits 14,

1 the call between Edy Oliverrez-Jiminez and -- or
2 actually 15, I apologize, Edy Oliverrez-Jiinez and
3 Armando Gonzalez Medina. They are talking about in
4 that call Cruz Millan told them, if you don't like
5 what is going on, you can get out. And he says,
6 that he, he being the defendant, sent them to hell.
7 He ordered them to take part in that attack, and
8 they did. And that 17 year old died as a result.
9 And then the final call that we introduced between
10 Edy Oliverrez-Jiminez, the convicted murderer, and
11 the defendant shows he was fully aware of what was
12 going on. He knew that one victim had been left
13 alive, and he can't send Edy back to that location
14 or he would be identified.

15 Anybody with half a conscious would have
16 stopped. Anybody with half a conscience would have
17 changed behavior after that, after that young boy
18 died. But he did not. Instead he steps up his
19 activities and that is when the investigation kicks
20 in and all of those wire intercepts and pattern we
21 talked about show how deadly this defendant is
22 before this court. Nashville, Tennessee. He shows
23 no hesitation whatsoever in that call that we played
24 for The Court when he is talking to Feo. They are
25 talking about steps, and the defendant is screwing

1 with him. They have got abandoned house. Check.
2 Do you have the phone? Check. Be sure wipe down
3 for fingerprints. You don't want to leave any
4 evidence. It is like a "how to" book directed by
5 the defendant for all cell managers across the
6 country on how to do these attacks when they are
7 going to lure a competitor in.

8 Covington, Kentucky shown by Government's
9 exhibits 26, is the same deadly pattern. And also
10 shows how they like to use women to lure
11 competition, because they are less suspecting.
12 Again, that mirrors what happened in Little Rock,
13 Arkansas when they tried to use S. O., who testified
14 at trial, to lure in the victim.

15 The discussions between Ramirez on the calls we
16 put before this Court show the level of violence he
17 is directing, that he wants these cells to engage
18 in, including having them have screwdrivers and have
19 baseball bats, and that they got to be ready in
20 dealing with the competition.

21 With respect to Boston, same thing was going
22 on. He is talking about, those calls are clear, and
23 I know The Court has read them. Talking about
24 beating up the competition, and the only thing that
25 changes in the call is because they realized the

1 competition was driving around with five or six
2 members because they knew they would be attacked,
3 and he decided, okay, we are not going to do an
4 attack, I will turn them over to the police. He
5 made a strategic decision not to do that. But he is
6 directing these, if they are going in two or three,
7 you can bet it would have been another attack. He
8 is engaged in the same pattern all along.

9 But when you add to that external violence, the
10 internal violence and the way that he directed the
11 organization it is frightening.

12 That guideline range presently before this
13 court only accounts for the kidnapping. I mentioned
14 earlier it doesn't account for the, pardon the
15 language, but the hell that he put that victim
16 through on these two conference calls just so he
17 could prove a point to the enterprise. Just so he
18 could scare everyone, this is what I am going to do
19 if you steal from the organization. And he himself
20 uses the word "torture" many times in those calls.
21 And the only reason that that event stopped is
22 because the police department got on their doorstep
23 during the investigation, and certainly not because
24 of anything this defendant did. And frankly the
25 victim is lucky he wasn't killed with a metal bat or

1 being electrocuted with jumper cables and everything
2 else he went through.

3 All that aside, the non violent aspect of this
4 case also warrants departure. I mentioned a number
5 of documents. You are aware of that. Mentioned the
6 money laundering. These factors that this Court has
7 relied upon in departing upward in all the other
8 defendants for which their scope of involvement is
9 so much lower than his. Sometimes four or five
10 levels the defendants have received for acts of
11 violence or for the level of documents.

12 I want to end with what I believe to be the
13 most important, what United States firmly believes,
14 the most important 3553 factors that apply to the
15 sentencing before this court. That is, not only the
16 seriousness of the offense which I have described
17 for The Court, but the need for deterrence. This is
18 a unique opportunity for this Court -- and this is
19 an opportunity that doesn't come very often to
20 Virginia, or frankly, any other court in the United
21 States -- because present before you today, Your
22 Honor, is in effect a cartel leader. He is at the
23 highest level of the organization. He was in charge
24 of the United States operations for this
25 organization. And with the level of violence that

1 the evidence has shown this Court that he is
2 responsible for, and the level of violence this
3 country is dealing with on its borders, of respect
4 to the drug cartels and other gangs out of Mexico
5 that are bleeding into the United States, and law
6 enforcement has spent day in and day out trying to
7 fight it, trying to stop it. That it seems
8 sometimes that there is no end to it.

9 But we are certain that a strong sentence of
10 this Court sends the right message. We believe 50
11 years is right. We believe the facts warrant it.
12 We believe that it needs to be sentenced, and that
13 the cartel leaders, the leaders of this violence in
14 Mexico, they get the messages that Cruz, Cruz Millan
15 was sentenced to 50 years and this is what is going
16 to happen if you come into this country over the
17 period of two years and engage in this level of
18 violence, this level of destruction. The lives he
19 destroyed, not only that family in Little Rock, but
20 the list of those who work for him and the untold
21 victims that we will never know because they are
22 illegal aliens, all at his hands. Nothing happened
23 to this group without his knowledge.

24 For all those reasons we respectfully request
25 this Court to upward vary and to give him that 50

1 year sentence. We believe it is just and warranted
2 by the facts.

3 Thank you, Your Honor.

4 THE COURT: Thank you.

5 Defendant?

6 MR. SRISKANDARAJAH: Judge, I will pick up
7 where Mr. Gill leaves off. What I will tell this
8 Court is Mr. Gill is right. Mr. Cruz Millan from
9 what the evidence shows was the person who was in
10 charge of running the operations for the United
11 States. What Mr. Gill says to The Court is Mr. Cruz
12 Millan is 26 years old. The message that Mr. Gill
13 is asking this Court to send out today is that there
14 is never any redemption for a human being short of
15 spending his entire life in a jail cell. Mr. Gill
16 wants this Court to lift up the federal penitentiary
17 as high as it could lift it up, throw Mr. Millan
18 under that cell, and slam it back down on him.
19 Because, in essence, that is what a 50 year sentence
20 is going to do.

21 What I will tell The Court is this, and that is
22 the premise that I would ask this Court to consider
23 is Mr. Millan. Judge, we all do things that at some
24 point in our lives that result in, taking a phrase,
25 our life is like a field. You sew seeds. If you

1 sow good seeds, we are taught and led to believe, a
2 good yield will come. If you sow bad seeds, you
3 will reap the same. Mr. Millan without a doubt in a
4 very short period of time has sowed some very, very
5 bad seeds. It is chilling to hear, and no one can
6 deny, that that audio tape about the incident that
7 occurred, Mr. Millan must be punished for that.
8 There is no doubt about it.

9 The question that comes before this court is
10 what is the appropriate amount of punishment. And
11 the only person who can decide that is you.

12 I could stand here before this Court and ask
13 this Court and throw numbers at The Court, but,
14 Judge, I am not going do that because the reality
15 is -- and this is not an endeavor to fight with this
16 Court -- this Court has far greater wisdom in terms
17 of watching a lot of cases that come before it than
18 anything I can tell The Court about what is an
19 appropriate sentence. This is ultimately The
20 Court's decision.

21 What I will tell The Court is this incident in
22 Arkansas that the government keeps pounding its fist
23 on the table and saying it is all Millan, I would
24 submit to The Court is not an accurate statement.
25 There is absolutely no contest that shows that

1 Mr. Millan has anything to do with ordering any kind
2 of violence in Arkansas. There is no question that
3 he engaged in violence internally. But the Arkansas
4 incident, Your Honor, is there is nothing to back it
5 up. We could engage in a significant amount of
6 speculation and conjecture, but if The Court were to
7 look at the cold hard facts there is nothing that
8 shows that Mr. Millan had anything to do with
9 ordering it.

10 The transcript does show that Mr. Millan knew
11 about this incident. But I will tell The Court that
12 the transcript shows subsequent to the fact, not
13 prior to the fact. That is the distinction, Judge.
14 Yes, he has been described as a micromanager. But
15 this Court knows very well that there are roving
16 employees who go out and do things on their own.

17 And to hold Mr. Millan liable for something an
18 employee of his did, without any evidence thereof
19 that Mr. Millan had anything to do with it, would be
20 unfair to him.

21 Now, this Court has ample other reasons to
22 sentence Mr. Millan. This is not some pure angel
23 who comes before this court and says, gee, Judge, I
24 made a few mistakes and that is all I did. The
25 evidence is clear about that.

1 But not -- but I would ask this Court not to
2 hang its hat on the Arkansas incident.

3 You heard directly from two members of this
4 organization that he did not order any acts of
5 violence. The two people we put before this court
6 testified to that.

7 J. N. N's trial testimony states Cruz Millan
8 was not aware of the Little Rock Arkansas incident.
9 No one debates. That is about as clear as it can
10 be.

11 There is definitely some conflict in testimony
12 from D. S. A. about what happened in Arkansas. But
13 the bottom line is, you can hear his voice. He was
14 there. And he concedes to it. What is most
15 compelling about Mr. Millan is that when asked
16 about, when he is being questioned by the agents,
17 their own agent testified that the standard pattern
18 is they deny it then they come forward and 'fes up
19 to what they were involved in. That is exactly what
20 happened. Mr. Millan denied the Raleigh incident.
21 Then admitted to the incident with Raleigh. But
22 when asked about the Arkansas, he held his ground.

23 The agent tried to play it off as well, he
24 didn't really say anything. But the reality is he
25 held firm. The government takes the position in its

1 sentencing memorandum he should be given 50 years
2 but he shouldn't be given the one-point reduction
3 for acceptance of responsibility. In our memorandum
4 we clearly show The Court Mr. Millan has always said
5 throughout this entire case, I accept responsibility
6 for the following things. But he was never given an
7 opportunity to plead until literally the day before.
8 If he had given that opportunity he would have come
9 before this Court two years ago and said to The
10 Court, I am guilty. I did it. I don't deny it.
11 But that is not what he was given an opportunity to
12 do.

13 The government steadfastly said it is an all or
14 nothing deal. Take the murder or you don't get a
15 deal.

16 You don't even get to plead to these counts.

17 That is the position the government took.

18 That is not the action of a man who comes
19 before this court and says, I am guilty of these
20 things.

21 Judge, we have briefed this in great detail for
22 The Court. I would submit to The Court there is a
23 case that shows Mr. Millan does a lot of chest
24 thumping, we are going to get these guys, we are
25 going to do these guys. But the reality is he

1 doesn't do anything. We, when he is dealing with
2 the competitor, he calls the titos, the police. So
3 he says, well, we will get the police involved.
4 That is how he fixes his problem.

5 Your Honor, I would ask this Court, I would
6 also tell The Court, Judge, the Raleigh incident is
7 already taken into account in the guidelines. That
8 has already been addressed. To say that there is
9 further enhancement that should occur, I would
10 submit is, again, coming back to the analogy or
11 example I give The Court, which is hold up the
12 federal penitentiary as high as you can and throw
13 him underneath it.

14 To take everything in context, Judge, and to
15 say that Mr. Millan is a monster with no chance of
16 redemption is an unfair position to take for the
17 government. To take the position he is a cartel
18 member who should be made an example of, Judge, I
19 ask to you think about a 26-year-old man here before
20 this Court. The Court has to decide, is there a
21 potential for redemption for Mr. Millan.

22 Thank you, Your Honor.

23 THE COURT: All right.

24 MR. SRISKANDARAJAH: One last thing. I also
25 stated in my memorandum, in subsequent memorandum as

1 to the facility, I believe it is in Kentucky for
2 placement, if The Court would do that as well.

3 Thank you, Your Honor.

4 THE COURT: All right.

5 Let me resolve the motion first of all.

6 Let me be clear, the first thing is the motion
7 before The Court relating to the variance is a very
8 particular and specific motion that The Court will
9 deal with within the discretionary guideline regime.
10 The question that comes to a variance from a
11 particular guideline range relates to very specific
12 considerations that have not been taken into account
13 by the probation department in putting together
14 their presentence report, and the work sheets that
15 are attached thereto. So, obviously, a variance is
16 a very different thing than departure.

17 So dealing with the motion for a variance, that
18 motion will be denied. And the reason for that is
19 that all of these things that the government has
20 appended or pinned its arguments on are considered
21 by the probation department in coming up with the
22 this guideline range.

23 For instance, a lot of the discussion about the
24 incident involving the kidnapping and abduction,
25 unlawful restraint of an individual who was a part

1 of the conspiracy. Well, that is what has driven
2 this guideline range to the point where it is. 32
3 points based on that.

4 And then it's not over. They give another two
5 points for the serious bodily injury being
6 sustained. And then another two points for
7 dangerous weapon being used. Jumper cables and a
8 battery. And then he gets four points for role in
9 the offense. And that gets you up to 40 minus two
10 for the cooperation.

11 It is clearly not only has it been taken into
12 consideration, it has run this truck a thousand
13 miles down the road from where it would be if it
14 wasn't there.

15 So, to suggest that that activity is not taken
16 into consideration is just not true.

17 And it is the same thing with the number of
18 documents. You have plus nine as relates to the
19 number of documents, plus 14, more than \$400,000
20 loss. All of these things were considered. So the
21 request for a variance is not appropriate and will
22 be denied.

23 Now, on the issue of departure, there are a few
24 things that The Court can look at to make some
25 determination about whether or not a sentence

1 outside of the guideline range is appropriate. And
2 I will do that at the appropriate time.

3 Mr. Cruz Millan, would you stand where you are,
4 please.

5 Sir, do you have anything you would like to say
6 before The Court imposes sentence?

7 THE DEFENDANT: Yes, Your Honor.

8 THE COURT: Go ahead.

9 THE DEFENDANT: I don't want to seem like if I
10 am feigning something. I want to say it as I really
11 feel it.

12 I believe that the incident that took place in
13 Raleigh was horrible. It was part of a decision I
14 was forced to do, and because of that I did that.

15 I do not deny my participation, and I have
16 admitted from the beginning that I did do it. And I
17 believe I deserve to be in jail for that same
18 reason.

19 I do not deny either that I was involved with
20 the documents and the money.

21 For that reason, Your Honor, I want to
22 apologize to you, Your Honor, in your own behalf and
23 on behalf of your country.

24 I am fully sorry. I think perhaps it is too
25 late to say I am sorry, but I don't know if there is

1 is something else I could say at this moment.

2 Perhaps the only thing I can add is if you could
3 give me an opportunity to try my redemption, because
4 of my family, because of my five year old child,
5 with whom I have never been able to be and to give
6 him an education.

7 Perhaps to fulfill some of the wishes that my
8 family at one time had for me, perhaps my mother.

9 Perhaps if I had the opportunity to go back to
10 school to become somebody in life to develop a
11 professional career. To be a good father, to be a
12 good husband to my wife, who has had a lot of
13 problems with mental health. And in that way to
14 change.

15 The hope that I have for something positive,
16 for something that, where I can fix things in the
17 future.

18 Finally what I would like to say is I am truly
19 sorry, and I apologize. But if you give me one last
20 opportunity, believe me I will not fail you.

21 That is all, Your Honor.

22 THE COURT: All right.

23 It is the judgment of The Court that the
24 defendant, Israel Cruz Millan, is hereby committed
25 to the custody of U.S. Bureau of Prisons to be

1 imprisoned for a term of 300 months. The term
2 consists of 240 months on count one, 240 months on
3 count ten, all to be served concurrently. A term of
4 60 months on count nine to be consecutive to the
5 other sentences imposed on counts one and ten. The
6 defendant is remanded to the custody of the U.S.
7 Marshal. He will receive credit for any time that
8 he has previously served related to this offense.
9 Obviously, this is an upward departure, and the
10 basis for that is as clearly the leader of this
11 organization Mr. Cruz Millan has to take more
12 responsibility than the others. His involvement in
13 violence is clear. The other individuals, the
14 number of documents and the money involved drove to
15 some extent the departure in their cases and would
16 be no different here.

17 The fact of the matter is, the exacerbating
18 circumstances were more taken into account in this
19 case than the others.

20 The defendant is remanded to the custody of the
21 Marshal. Upon release from imprisonment the
22 defendant shall be placed on supervised release for
23 a term of three years. This term consists of three
24 years on count one, term of three years on count
25 nine, and a term of three years on count ten, all to

1 run concurrently.

2 Within 72 hours of release from the custody of
3 the Bureau of Prisons the defendant shall report in
4 person to the probation office in the district to
5 which he is released. While on supervision the
6 defendant shall not commit another federal, state,
7 or local crime, and he shall not unlawfully possess
8 a controlled substance. He shall not possess a
9 firearm or other destructive device. The defendant
10 shall comply with the standard conditions as
11 recommended by U.S. Sentencing Commission. The
12 defendant shall also comply with the following
13 special conditions: As a condition of supervised
14 release upon completion of the defendant's term of
15 imprisonment the defendant is to be surrendered to a
16 duly authorized immigration official for deportation
17 in accordance with established procedures.

18 As a further condition of supervised release,
19 if ordered deported the defendant shall remain
20 outside of United States. The Court has considered
21 the defendant's financial situation in its totality,
22 and The Court finds that the defendant is not
23 capable of paying a fine, and therefore none will be
24 imposed. As to count one the defendant shall pay a
25 special assessment of a hundred dollars; likewise,

1 as to counts nine and ten, for a total special
2 assessment due of \$300. The special assessment
3 shall be due immediately. Any balance remaining
4 unpaid on the special assessment at the beginning of
5 supervision shall be paid by the defendant in
6 installments of not less than \$25 per month until
7 paid in full. Said payment shall commence 60 days
8 after the defendant's supervision begins. Payment
9 of any unpaid balance shall become special condition
10 of supervised release.

11 Any forfeiture previously entered is hereby
12 made a part of the sentence and shall be included in
13 the judgment.

14 The Court will make no recommendation to the
15 Bureau of Prisons regarding precise place for
16 housing of Mr. Cruz Millan. The closest appropriate
17 facility to his home is the most that I will say.

18 Mr. Cruz Millan, you have a right to appeal any
19 sentence imposed by this court. If you are going to
20 do that, you would have to file a notice of appeal
21 within 14 days of today's date.

22 The government, you still have all of those
23 superseding indictments?

24 MR. GILL: We do, Your Honor. And we move to
25 dismiss the remaining indictments and other counts

1 pending with respect to this defendant.

2 THE COURT: All right. That motion will be
3 granted. Remaining indictments and counts other
4 than those to which he pled will be dismissed. All
5 right.

6 That completes the matter.

7 Thank you all very much.

8 HEARING ADJOURNED.

9

10 THE FOREGOING IS A TRUE AND CORRECT TRANSCRIPT.

11

12 GILBERT FRANK HALASZ, RMR

13 OFFICIAL COURT REPORTER

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